

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO THE  
SEVENTEENTH SET OF INFORMATION REQUESTS FROM THE ATTORNEY  
GENERAL

D. T. E. 05-27

Date: July 13, 2005

Responsible: Joseph A. Ferro, Manager Regulatory Policy

AG-19-13 Referring to the Company's response to Information Request AG-1-34A, for 2004, Account 649506 indicates that there were "Special Deals" during that year. Please indicate who the "Special Deals" were with, provide the contracts associated with the deals, and indicate to whom the associated margins were flowed.

Response: The net revenues recorded in Account 649506 relate to off-system sales activity in 2004. Attachment AG-19-13 (a) provides a summary of the non-firm off-system sales transactions including all counter-parties and contractual details associated with each transaction. Each of these transactions is governed by a North American Energy Standards Board ("NAESB") contract, executed with each counter-party substantially in the form attached as Attachment AG-19-13 (b). Also included are the Special Provisions to the NAESB contract, attached as Attachment-19-13 (c).

The total margin generated from these transactions was \$2,005,771. In accordance with the margin sharing provisions for all Massachusetts LDCs from D.T.E. 93-141A, the Company retained \$470,573 of this margin as recorded in Account 642173 and passed back the remaining margin of \$1,535,198 to firm sales customers through the CGA.

Bay State Gas Company  
D.T.E. 05-27  
Attachment AG-19-13 (A)

Month	Customer	Delivery Pipeline	Meter Number - Delivery Point	Delivery State	Delivery Point County	Delivery Date	Total Delivery Vol (Dth)	Sale Price (\$/Dth)	Gross Revenue (\$)	Profit/Cost Margin (\$)
Jan-04	ANP Funding I	ALGONQUIN	00801 - MILFORD	MA	WORCEST	15-Jan-04	8,500	63.42	\$539,070	\$0
Jan-04	ANP Funding I	ALGONQUIN	00814 - ANP FUNDING I, LLC	MA	NORFOLK	15-Jan-04	1,500	63.42	\$95,130	\$0
Jan-04	ANP Funding I	ALGONQUIN	00814 - ANP FUNDING I, LLC	MA	NORFOLK	15-Jan-04	2,000	63.42	\$126,840	\$33,552
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	07-Jan-04	2,000	5.20	\$10,400	\$21
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	08-Jan-04	1,500	5.20	\$7,800	\$16
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	09-Jan-04	3,596	5.20	\$18,699	\$38
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	09-Jan-04	404	5.20	\$2,101	\$4
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	10-Jan-04	3,774	5.20	\$19,625	\$40
Jan-00	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	10-Jan-04	726	5.20	\$3,775	\$8
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	11-Jan-04	3,229	5.20	\$16,791	\$35
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	11-Jan-04	0	5.20	\$0	\$0
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	15-Jan-04	4,426	5.20	\$23,015	\$47
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	15-Jan-04	574	5.20	\$2,985	\$6
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	16-Jan-04	3,244	5.20	\$16,869	\$35
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	20-Jan-04	207	5.20	\$1,076	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	20-Jan-04	500	5.20	\$2,600	\$5
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	23-Jan-04	162	5.20	\$842	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	23-Jan-04	100	5.20	\$520	\$1
Jan-04	ENERGYEAST	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAV	24-Jan-04	100	5.20	\$520	\$1
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	24-Jan-04	1,292	5.20	\$6,718	\$14
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	24-Jan-04	0	5.20	\$0	\$0
Jan-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESE	24-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAV	25-Jan-04	450	5.20	\$2,340	\$5
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	25-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	25-Jan-04	150	5.20	\$780	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESE	25-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAV	26-Jan-04	400	5.20	\$2,080	\$4
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	29-Jan-04	1,000	5.20	\$5,200	\$11
Jan-04	ENERGYEAST	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAV	30-Jan-04	100	5.20	\$520	\$1
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	30-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	30-Jan-04	500	5.20	\$2,600	\$5
Jan-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESE	30-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAV	31-Jan-04	100	5.20	\$520	\$1
Jan-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUT	31-Jan-04	200	5.20	\$1,040	\$2
Jan-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	31-Jan-04	500	5.20	\$2,600	\$5

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Month	Customer	Delivery Pipeline	Meter Number - Delivery Point	Delivery State	Delivery Point County	Delivery Date	Total Delivery Vol (Dth)	Sale Price (\$/Dth)	Gross Revenue (\$)	Profit/Cost Margin (\$)
Jan-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	31-Jan-04	200	5.20	\$1,040	\$2
Jan-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	08-Jan-04	2,458	9.00	\$22,122	\$208
Jan-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	08-Jan-04	2,075	9.00	\$18,675	\$175
Jan-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	08-Jan-04	467	9.00	\$4,203	\$39
Jan-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	09-Jan-04	2,389	9.00	\$21,501	\$202
Jan-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	09-Jan-04	2,144	9.00	\$19,296	\$181
Jan-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	09-Jan-04	467	9.00	\$4,203	\$39
Jan-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	14-Jan-04	2,242	9.00	\$20,178	\$189
Jan-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	14-Jan-04	2,085	9.00	\$18,765	\$176
Jan-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	14-Jan-04	673	9.00	\$6,057	\$57
Jan-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	15-Jan-04	2,242	9.00	\$20,178	\$189
Jan-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	15-Jan-04	2,085	9.00	\$18,765	\$176
Jan-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	15-Jan-04	673	9.00	\$6,057	\$57
Jan-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	16-Jan-04	2,383	9.00	\$21,447	\$201
Jan-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	VARIOUS	16-Jan-04	2,617	9.00	\$23,553	\$221
Jan-04	SELECT ENERGY	ALGONQUIN	99817 - BAY STATE	MA	MIDDLESEX	09-Jan-04	8,897	5.30	\$47,154	\$985
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	09-Jan-04	1,103	5.30	\$5,846	\$122
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	09-Jan-04	2,954	5.30	\$15,656	\$327
Jan-04	Virginia Power	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	10-Jan-04	7,046	5.30	\$37,344	\$780
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	10-Jan-04	1,047	5.30	\$5,549	\$116
Jan-04	Virginia Power	ALGONQUIN	00002 - WATERBURY	CT	NEW HAVEN	14-Jan-04	348	5.30	\$1,844	\$39
Jan-04	Virginia Power	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	14-Jan-04	7,143	5.30	\$37,858	\$791
Jan-04	Virginia Power	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	14-Jan-04	346	5.30	\$1,834	\$38
Jan-04	Virginia Power	ALGONQUIN	00017 - NEW BEDFORD	MA	MIDDLESEX	14-Jan-04	607	5.30	\$3,217	\$67
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	14-Jan-04	9	5.30	\$48	\$1
Jan-04	Virginia Power	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	14-Jan-04	500	5.30	\$2,650	\$55
Jan-04	Virginia Power	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	14-Jan-04	1,311	5.30	\$6,948	\$145
Jan-04	Virginia Power	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	15-Jan-04	8,489	5.30	\$44,992	\$940
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	15-Jan-04	200	5.30	\$1,060	\$22
Jan-04	Virginia Power	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	15-Jan-04	1,772	5.30	\$9,392	\$196
Jan-04	Virginia Power	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	16-Jan-04	8,334	5.30	\$44,170	\$923
Jan-04	Virginia Power	ALGONQUIN	99817 - BAY STATE	MA	VARIOUS	16-Jan-04	898	5.30	\$4,759	\$99
Jan-04	Virginia Power	ALGONQUIN	00004 - DEY STREET	RI	PROVIDENCE	24-Jan-04	7,944	5.30	\$42,103	\$879
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	24-Jan-04	344	5.30	\$1,823	\$38
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	24-Jan-04	814	5.30	\$4,314	\$90
Jan-04	Virginia Power	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	24-Jan-04				

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Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	29-Jan-04	3,453	5.30	\$18,301	\$382
Jan-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	29-Jan-04	3,222	5.30	\$17,077	\$357
Jan-04	Virginia Power	ALGONQUIN	99817 - BAY STATE	MA	VARIOUS	29-Jan-04	2,906	5.30	\$15,402	\$322
Jan-04	Virginia Power	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	29-Jan-04	456	5.30	\$2,417	\$50
Jan-04	NSTAR	AGT	24 - Brockton (System Interconnect)	MA	PLYMOUTH	05-Jan-04	62	63.42	\$3,932	\$1,064
Feb-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	08-Feb-04	1,179	5.20	\$6,131	-\$288
Feb-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	15-Feb-04	3,943	5.20	\$20,504	-\$944
Feb-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	16-Feb-04	2,500	5.20	\$13,000	-\$599
Feb-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	08-Feb-04	1,067	5.20	\$5,548	-\$255
Feb-04	ENERGYEAST	ALGONQUIN	00063 - DANBURY	CT	FAIRFIELD	15-Feb-04	1,057	5.20	\$5,496	-\$253
Feb-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	15-Feb-04	3,024	9.00	\$27,216	\$2,858
Feb-04	SELECT ENERGY	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	16-Feb-04	2,537	9.00	\$22,833	\$2,397
Feb-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	15-Feb-04	226	9.00	\$2,034	\$214
Feb-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	16-Feb-04	880	9.00	\$7,920	\$832
Feb-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	15-Feb-04	1,097	9.00	\$9,873	\$1,037
Feb-04	SELECT ENERGY	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	16-Feb-04	1,583	9.00	\$14,247	\$1,496
Feb-04	SELECT ENERGY	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	15-Feb-04	10,000	5.30	\$53,000	-\$1,394
Feb-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	16-Feb-04	8,938	5.30	\$47,371	-\$1,246
Feb-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	16-Feb-04	1,062	5.30	\$5,629	-\$148
Feb-04	Virginia Power	ALGONQUIN	00205 - MENDON	MA	WORCESTER	16-Feb-04				
38047	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	38053	1869	5.2	\$9,719	-\$167
Mar-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	08-Mar-04	2,103	5.20	\$10,936	-\$188
Mar-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	09-Mar-04	1,300	5.20	\$6,760	-\$116
Mar-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	13-Mar-04	1,400	5.20	\$7,280	-\$125
Mar-04	ENERGYEAST	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	17-Mar-04	1,531	5.20	\$7,961	-\$137
Mar-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	07-Mar-04	164	5.20	\$853	-\$15
Mar-04	ENERGYEAST	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	08-Mar-04	1,453	5.20	\$7,556	-\$130
Mar-04	Virginia Power	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAVEN	16-Mar-04	1,509	5.30	\$7,998	\$16
Mar-04	Virginia Power	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAVEN	17-Mar-04	2,500	5.30	\$13,250	\$27
Mar-04	Virginia Power	ALGONQUIN	00003 - NORTH HAVEN	CT	NEW HAVEN	30-Mar-04	1,160	5.30	\$6,148	\$12
Mar-04	Virginia Power	ALGONQUIN	00003 - NORTH HAVEN	RI	PROVIDENCE	17-Mar-04	4,000	5.30	\$21,200	\$42
Mar-04	Virginia Power	ALGONQUIN	00004 - DEY STREET	MA	BRISTOL	16-Mar-04	4,748	5.30	\$25,164	\$50
Mar-04	Virginia Power	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	30-Mar-04	3,016	5.30	\$15,985	\$32

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Mar-04	Virginia Power	ALGONQUIN	00017 - NEW BEDFORD	MA	BRISTOL	30-Mar-04	832	5.30	\$4,410	\$9
Mar-04	Virginia Power	ALGONQUIN	00026 - CAMBRIDGE	MA	MIDDLESEX	30-Mar-04	602	5.30	\$3,191	\$6
Mar-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	16-Mar-04	3,380	5.30	\$17,914	\$36
Mar-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	17-Mar-04	400	5.30	\$2,120	\$4
Mar-04	Virginia Power	ALGONQUIN	00027 - EVERETT	MA	MIDDLESEX	30-Mar-04	1,415	5.30	\$7,500	\$15
Mar-04	Virginia Power	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	16-Mar-04	16	5.30	\$85	\$0
Mar-04	Virginia Power	ALGONQUIN	00043 - ASHLAND	MA	MIDDLESEX	30-Mar-04	1,697	5.30	\$8,994	\$18
Mar-04	Virginia Power	ALGONQUIN	00051 - SAGAMORE	MA	BARNSTAB	30-Mar-04	886	5.30	\$4,696	\$9
Mar-04	Virginia Power	ALGONQUIN	00052 - POKKAPOAG	MA	NORFOLK	17-Mar-04	1,000	5.30	\$5,300	\$11
Mar-04	Virginia Power	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	16-Mar-04	347	5.30	\$1,839	\$4
Mar-04	Virginia Power	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	17-Mar-04	2,100	5.30	\$11,130	\$22
Mar-04	Virginia Power	ALGONQUIN	00078 - CROMWELL	CT	MIDDLESEX	30-Mar-04	249	5.30	\$1,320	\$3
Apr-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	13-Apr-04	500	6.60	\$3,300	\$406
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	02-May-04	2,000	6.50	\$13,000	\$303
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	08-May-04	8,000	6.85	\$54,800	\$1,120
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	09-May-04	700	6.85	\$4,795	\$98
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	10-May-04	12,000	6.85	\$82,200	\$1,680
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	11-May-04	8,000	6.95	\$55,600	\$4,811
May-04	MMWEC	ALGONQUIN	99817 - BAY STATE	MA	VARIOUS	12-May-04	8,144	7.00	\$57,008	\$1,936
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	12-May-04	6,042	7.00	\$42,294	\$8,386
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	12-May-04	9,814	7.00	\$68,698	\$6,393
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	13-May-04	1,500	7.25	\$10,875	\$1,352
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	14-May-04	7,000	7.25	\$50,750	\$6,310
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	16-May-04	1,000	7.15	\$7,150	\$801
May-04	MMWEC	ALGONQUIN	99817 - BAY STATE	MA	VARIOUS	17-May-04	11,144	7.15	\$79,680	\$3,777
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	17-May-04	6,042	7.15	\$43,200	\$9,292
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	17-May-04	9,814	7.15	\$70,170	\$7,865
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	18-May-04	8,000	7.15	\$57,200	\$1,720
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	19-May-04	5,000	7.00	\$35,000	\$900
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	20-May-04	186	6.90	\$1,283	\$240
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	20-May-04	9,814	6.90	\$67,717	\$5,411
May-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	21-May-04	8,000	7.20	\$57,600	\$6,811

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May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	27-May-04	800	7.30	\$5,840	\$112
May-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	28-May-04	10,000	7.00	\$70,000	\$2,300
May-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
May-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
May-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Jun-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	01-Jun-04	500	7.10	\$3,550	\$138
Jun-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	07-Jun-04	1,000	6.90	\$6,900	\$375
Jun-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	08-Jun-04	16,000	6.90	\$110,400	\$3,600
Jun-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	09-Jun-04	13,000	7.10	\$92,300	\$1,820
Jun-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	14-Jun-04	1,500	7.35	\$11,025	\$98
Jun-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	17-Jun-04	1,500	7.35	\$11,025	\$98
Jun-04	Sequent Energy	TETCO	70036 - PECO	PA	W. CONSH	04-Jun-04	700	0.08	\$54	\$0
Jun-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Jun-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Jun-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Jul-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	18-Jul-04	1,000	6.50	\$6,500	\$324
Jul-04	MMWEC	TENN	020121 - GRANITE-LAWRENCE MASS	MA	ESSEX	21-Jul-04	1,000	6.50	\$6,500	\$169
Jul-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Jul-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Jul-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Aug-04	MMWEC	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	02-Aug-04	6,000	6.50	\$39,000	\$270
Aug-04	MMWEC	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	12-Aug-04	3,000	6.50	\$19,500	\$1,050
Aug-04	MMWEC	ALGONQUIN	00024 - BROCKTON	MA	PLYMOUTH	20-Aug-04	4,000	6.50	\$26,000	\$1,400
Aug-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	30-Aug-04	6,000	5.85	\$35,100	\$814
Aug-04	MMWEC	TENN	020751 - GRANITE - MONSON SMS	MA	HAMPDEN	20-Aug-04	4,200	6.20	\$26,040	\$915
Aug-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Aug-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Aug-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Sep-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	20-Sep-04	700	6.00	\$4,200	\$357

Bay State Gas Company  
D.T.E. 05-27  
Attachment AG-19-13 (A)

Month	Customer	Delivery Pipeline	Meter Number - Delivery Point	Delivery State	Delivery Point County	Delivery Date	Total Delivery Vol (Dth)	Sale Price (\$/Dth)	Gross Revenue (\$)	Profit/Cost Margin (\$)
Sep-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	21-Sep-04	3,500	5.60	\$19,600	\$105
Sep-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	22-Sep-04	9,000	6.00	\$54,000	\$1,305
Sep-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	23-Sep-04	9,000	6.10	\$54,900	\$945
Sep-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Sep-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Sep-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Oct-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	14-Oct-04	600	6.30	\$3,780	\$106
Oct-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	15-Oct-04	3,000	6.30	\$18,900	\$531
Oct-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	20-Oct-04	4,000	7.90	\$31,600	\$4,180
Oct-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	21-Oct-04	1,000	7.95	\$7,950	\$185
Oct-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	24-Oct-04	9,000	7.95	\$71,550	\$2,070
Oct-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Oct-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Oct-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Nov-04	Emera Energy	ALGONQUIN	00024 - Ponkapoag	MA		29-Nov-04	19,000	0.09	\$1,710	\$1,461
Nov-04	MMWEC	PORTLAND	05-0850 - GRANITE STATE SMS (NEW NH	MA	ROCKINGHAM	11-Nov-04	4,000	7.00	\$28,000	\$2,961
Nov-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$43,750	\$43,750
Nov-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Nov-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Nov-04	Cargill Incorporated	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$45,833	\$45,833
Nov-04	Sprague Energy	TETCO	00024 - BROCKTON	MA	PLYMOUTH	Various	Various	Various	\$236,580	\$236,580
Nov-04	Constellation	IROQ/AGT	00024 - BROCKTON	MA	PLYMOUTH	Various	525,000	Various	\$108,109	\$108,109
Dec-04	Middleboro Gas and I	ALGONQUIN	00011 - TAUNTON	MA	BRISTOL	20-Dec-04	300	18.00	\$5,400	\$3,390
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	07-Dec-04	10,000	7.00	\$70,000	\$6,246
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	08-Dec-04	9,000	7.00	\$63,000	\$5,622
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	09-Dec-04	5,000	7.00	\$35,000	\$1,150
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	09-Dec-04	9,500	7.00	\$66,500	\$5,934
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	10-Dec-04	5,000	7.00	\$35,000	\$1,525
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	10-Dec-04	6,500	7.00	\$45,500	\$4,060
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	13-Dec-04	4,000	7.70	\$30,800	\$5,299
Dec-04	MMWEC	TENN	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	29-Dec-04	9,000	7.45	\$67,050	\$2,475

Bay State Gas Company  
D.T.E. 05-27  
Attachment AG-19-13 (A)

Month	Customer	Delivery Pipeline	Meter Number - Delivery Point	Delivery State	Delivery County	Delivery Date	Total Delivery Vol (Dth)	Sale Price (\$/Dth)	Gross Revenue (\$)	Profit/Cost Margin (\$)
Dec-04	Peoples Energy	IROQUOIS	1 - WRIGHT	NY	SCHOHAR	22-Dec-04	2,778	0.20	\$556	\$556
Dec-04	Peoples Energy	TENN	020909 - DRACUT DELIVERY	MA	MIDDLESE	15-Dec-04	4,000	10.02	\$40,080	\$80
Dec-04	TXU	TETCO	00024 - BROCKTON	MA	PLYMOUT	Various	Various	Various	\$43,750	\$43,750
Dec-04	TXU	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$62,500	\$62,500
Dec-04	NJR Energy Services	National Fuel	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$24,091	\$24,091
Dec-04	Cargill Incorporated	TGP	020107 - GRANITE-AGAWAM MASS	MA	HAMPDEN	Various	Various	Various	\$45,833	\$45,833
Dec-04	Sprague Energy	TETCO	00024 - BROCKTON	MA	PLYMOUT	Various	Various	Various	\$236,580	\$236,580
Dec-04	Constellation	IROQ/AGT	00024 - BROCKTON	MA	PLYMOUT	Various	525,000	Various	\$108,109	\$108,109



## Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: \_\_\_\_\_. The parties to this Base Contract are the following:

**Bay State Gas Company ("NiSource LDC")**

300 Friberg Parkway, Westborough, MA 01581-5039

Duns Number: 069-340-214

Contract Number: \_\_\_\_\_

U.S. Federal Tax ID Number: 04-3442797

and \_\_\_\_\_

Duns Number: \_\_\_\_\_

Contract Number: \_\_\_\_\_

U.S. Federal Tax ID Number: \_\_\_\_\_

**Notices:**

1500 165<sup>th</sup> Street – GOC, Hammond, IN 46324

Attn: Manager, Scheduling and Accounting

Phone: (219) 853-4320

Fax: (219) 853-4330

Attn: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**Confirmations:**

1500 165<sup>th</sup> Street – GOC, Hammond, IN 46324

Attn: Manager, Scheduling and Accounting

Phone: (219) 853-4320

Fax: (219) 853-4330

Attn: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**Invoices and Payments:**

1500 165<sup>th</sup> Street – GOC, Hammond, IN 46324

Attn: Manager, Scheduling and Accounting

Phone: (219) 853-4320

Fax: (219) 853-4330

Attn: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**Wire Transfer or ACH Numbers (if applicable):**

BANK: Fleet Bank – Boston, MA

ABA: 011 000 138

ACCT: 234 300 00

Other Details: Bay State Gas Company

BANK: \_\_\_\_\_

ABA: \_\_\_\_\_

ACCT: \_\_\_\_\_

Other Details: \_\_\_\_\_

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply. Select only one box from each section:

<b>Section 1.2</b> Transaction Procedure <input checked="" type="checkbox"/> Oral (default) <input type="checkbox"/> Written	<b>Section 7.2</b> Payment Date <input checked="" type="checkbox"/> 25 <sup>th</sup> Day of Month following Month of delivery (default) <input type="checkbox"/> _____ Day of Month following Month of delivery
<b>Section 2.5</b> Confirm Deadline <input checked="" type="checkbox"/> 2 Business Days after receipt (default) <input type="checkbox"/> _____ Business Days after receipt	<b>Section 7.2</b> Method of Payment <input checked="" type="checkbox"/> Wire transfer (default) <input type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check
<b>Section 2.6</b> Confirming Party <input type="checkbox"/> Seller (default) <input type="checkbox"/> Buyer <input checked="" type="checkbox"/> NiSource LDC	<b>Section 7.7</b> Netting <input type="checkbox"/> Netting applies (default) <input checked="" type="checkbox"/> Netting does not apply
<b>Section 3.2</b> Performance Obligation <input checked="" type="checkbox"/> Cover Standard (default) <input type="checkbox"/> Spot Price Standard	<b>Section 10.3.1</b> Early Termination Damages <input checked="" type="checkbox"/> Early Termination Damages Apply (default) <input type="checkbox"/> Early Termination Damages Do Not Apply
<b>Note: The following Spot Price Publication applies to both of the immediately preceding.</b> <b>Section 2.26</b> Spot Price Publication <input checked="" type="checkbox"/> Gas Daily Midpoint (default) <input type="checkbox"/> _____	<b>Section 10.3.2</b> Other Agreement Setoffs <input checked="" type="checkbox"/> Other Agreement Setoffs Apply (default) <input type="checkbox"/> Other Agreement Setoffs Do Not Apply
<b>Section 6</b> Taxes <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) <input type="checkbox"/> Seller Pays Before and At Delivery Point	<b>Section 14.5</b> Choice Of Law <u>Massachusetts</u>
<input checked="" type="checkbox"/> <b>Special Provisions</b> Number of sheets attached: three <input type="checkbox"/> <b>Addendum(s):</b> _____	<b>Section 14.10</b> Confidentiality <input checked="" type="checkbox"/> Confidentiality applies (default) <input type="checkbox"/> Confidentiality does not apply

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

**BAY STATE GAS COMPANY**

By \_\_\_\_\_  
Name: Daniel D. Gavito  
Title: Vice President, Energy Supply Services

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# General Terms and Conditions

## Base Contract for Sale and Purchase of Natural Gas

### SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.7.

**The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.**

#### **Oral Transaction Procedure:**

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

#### **Written Transaction Procedure:**

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract. However, nothing herein shall be construed as a waiver of any objection to the admissibility of such evidence.

### SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

2.1. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.

2.2. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.

2.3. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).

- 2.4. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.
- 2.5. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.6. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.7. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation.
- 2.8. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.9. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.10. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.11. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, a performance bond, guaranty, or other good and sufficient security of a continuing nature.
- 2.12. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.13. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.14. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.15. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.16. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.17. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.18. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.19. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.20. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.21. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.22. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.23. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.24. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.25. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.26. "Spot Price" as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average

of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.

2.27. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.

2.28. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.

2.29. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

## SECTION 3. PERFORMANCE OBLIGATION

3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

**The parties have selected either the "Cover Standard" or the "Spot Price Standard" as indicated on the Base Contract.**

### Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s); or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s); or (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available, then the sole and exclusive remedy of the performing party shall be any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller and received by Buyer for such Day(s). Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

### Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

## SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

## SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

## SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

### Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

### Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

## SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

## SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 14.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

## SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payments and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

## SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or a performance bond or guaranty (including the issuer of any such security).

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; or (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law or that are, in the reasonable opinion of the Non-Defaulting Party, commercially impracticable to liquidate and terminate ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is reasonably practicable, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.



**The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.**

**Early Termination Damages Apply:**

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

**Early Termination Damages Do Not Apply:**

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract.

**The parties have selected either "Other Agreement Setoffs Apply" or "Other Agreement Setoffs Do Not Apply" as indicated on the Base Contract.**

**Other Agreement Setoffs Apply:**

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between the parties.

**Other Agreement Setoffs Do Not Apply:**

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the

date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

## SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Agreement; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

## SECTION 12. TERM

This Contract may be terminated on 30 Day's written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6 and Section 10, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

## SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.



TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

## SECTION 14. MISCELLANEOUS

14.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

14.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

14.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

14.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

14.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

14.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

14.7. There is no third party beneficiary to this Contract.

14.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

14.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

14.10. Unless the parties have elected on the Base Contract not to make this Section 14.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, or (iv) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

14.11 The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties.

**DISCLAIMER:** The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.**

**TRANSACTION CONFIRMATION  
FOR IMMEDIATE DELIVERY**

Attachment AG-19-13B  
EXHIBIT A

Letterhead/Logo	Date: _____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.				
<b>SELLER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	<b>BUYER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$ _____ /MMBtu or _____				
Delivery Period: Begin: _____, _____ End: _____, _____				
<b>Performance Obligation and Contract Quantity: (Select One)</b>  <table style="width:100%;"> <tr> <td style="width:33%; vertical-align: top;"> <b>Firm (Fixed Quantity):</b>            _____ MMBtus/day  <input type="checkbox"/> EFP         </td> <td style="width:33%; vertical-align: top;"> <b>Firm (Variable Quantity):</b>            _____ MMBtus/day Minimum            _____ MMBtus/day Maximum            subject to Section 4.2. at election of  <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller         </td> <td style="width:33%; vertical-align: top;"> <b>Interruptible:</b>            Up to _____ MMBtus/day         </td> </tr> </table>		<b>Firm (Fixed Quantity):</b> _____ MMBtus/day <input type="checkbox"/> EFP	<b>Firm (Variable Quantity):</b> _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	<b>Interruptible:</b> Up to _____ MMBtus/day
<b>Firm (Fixed Quantity):</b> _____ MMBtus/day <input type="checkbox"/> EFP	<b>Firm (Variable Quantity):</b> _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	<b>Interruptible:</b> Up to _____ MMBtus/day		
<b>Delivery Point(s):</b> _____ (If a pooling point is used, list a specific geographic and pipeline location):				
<b>Special Conditions:</b>				
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____			

**Special Provisions ("Special Provisions") attached to and forming a part of that certain Base Contract for Sale and Purchase of Natural Gas dated \_\_\_\_\_ (the "Base Contract") by and between: \_\_\_\_\_ ("NiSource LDC") and \_\_\_\_\_ ("Counterparty").**

**Capitalized terms used in these Special Provisions shall have the meanings ascribed to them in the Base Contract. Section references in these Special Provisions refer to a Section of the General Terms and Conditions of the Base Contract, unless stated otherwise. In the event of a conflict among the terms of the Base Contract or the General Terms and Conditions and these Special Provisions, the terms of these Special Provisions shall govern in priority.**

## **SECTION 1. PURPOSES AND PROCEDURES**

The following language shall be added after Section 1.1 as Section 1.1.1:

"Purchase and sale transactions pursuant to the terms of this Contract may include exchanges in which the performance obligations of each Party include both receiving and delivering gas as specified in the effectuating Transaction Confirmation. For purposes of an Exchange transaction, when a party is receiving gas, it is the Buyer and when a Party is delivering Gas, it is the Seller under the terms of this Contract. For purposes of Sections 2.8, 2.23, 7 and other provisions related to payment obligations under this Contract, the party owing money pursuant to the terms of the Transaction Confirmation is the Buyer and the party that is owed money pursuant to the terms of the Transaction Confirmation is the Seller."

Section 1.4 shall be amended as follows:

Delete the 3<sup>rd</sup> and 4<sup>th</sup> sentences and replace with the following language:

"When the parties have selected the Oral Transaction procedure in Section 1.2 of the Base Contract, (i) each party consents to the recordings of its representatives' telephone conversations with respect to the Base Contract or any transaction without further notice; (ii) the parties agree and recognize that in some instances purchases and sales may be facilitated through brokers; (iii) the parties agree that all recordings between themselves, third parties and brokers may be introduced into evidence and used to prove a contract between the parties and the authority of the broker to effectuate the transaction.

**FURTHER, WHEN THE PARTIES HAVE SELECTED THE ORAL TRANSACTION PROCEDURE IN SECTION 1.2 OF THE BASE CONTRACT, BOTH PARTIES WAIVE OBJECTIONS BASED ON THE STATUTE OF FRAUDS, THE PAROL EVIDENCE RULE, OR SIMILAR EVIDENTIARY RULES, TO THE INTRODUCTION OF THE RECORDED CONVERSATIONS INTO EVIDENCE TO PROVE A CONTRACT OR THE AUTHORITY OF ITS REPRESENTATIVES (ACTUAL OR APPARENT) TO**

## **ENTER INTO THE BINDING TRANSACTIONS CONTEMPLATED HEREIN."**

## **SECTION 2. DEFINITIONS**

Section 2.11 shall be deleted in its entirety and the following substituted in lieu thereof:

"2.11 "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, a guaranty, or other good and sufficient security of a continuing nature. The issuer of any such security and/or the guarantor must be acceptable to the other party at its sole discretion. The other party agrees to act in a reasonable manner in evaluating such issuer and/or guarantor."

Section 2.21 shall be amended by adding the following parenthetical to the end of the sentence: ("Dth").

The following Section shall be added:

2.30 "Specified Transaction" shall mean (a) any transaction, other than transactions entered into under this Base Contract (including an agreement with respect thereto) now existing or hereafter entered into between the parties to this Base Contract, which shall include, but not be limited to, a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, cap transaction, floor transaction, collar transaction, weather derivative, capacity release, aggregation service, gathering service, transportation service, park and loan or other services or transactions provided pursuant to a regulated tariff, an agreement for the purchase, sale or transfer of any Commodity or any other commodity trading transaction, or any similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions, or (c) any other financial arrangement not specified in (a) or (b) above. For this purpose, the term "Commodity" means any tangible or intangible commodity of any type or description (including, without limitation, natural gas, natural gas liquids, and byproducts thereof).

### SECTION 3. PERFORMANCE OBLIGATION

The following language shall be added to the Cover Standard in line 10 of Section 3.2 after the phrase "and no such replacement or sale is available" in (iii):

"or the non-breaching party elects, at its sole option not to replace Gas or sell Gas,"

The following Section shall be added as Section 3.5:

"In addition, for so long as non-performance is continuing, the Performing Party may, upon one (1) Business Day notice, suspend its performance under any or all transactions between the parties for the purchase and sale of Gas."

### SECTION 7. BILLING, PAYMENT AND AUDIT

The following Sections shall be added:

7.8 Netting shall not apply to any accelerated payment obligation under Section 7.3; provided, however, that the party due payment under an accelerated payment invoice may net all sums due thereunder against any amounts payable by it when making payments under Section 7. Notwithstanding Section 7.2 and 7.4, the Non-Performing Party shall pay as invoiced any disputed amounts regarding any payment required to be made under Section 7.3, subject to refund of any amount overpaid with interest at the rate provided in Section 7.5 in the event that the dispute is resolved in favor of the Non-Performing Party.

7.9 Notwithstanding Section 7.2, if the Non-Performing Party fails to pay the accelerated payment invoice within five (5) Business Days pursuant to Section 7.3, then, while the non-performance is continuing, the Non-Defaulting Party may declare an Early Termination Date with respect to the applicable transaction in accordance with the provisions of Section 10.3. The failure of the Non-Defaulting Party to exercise any of the remedies in this Section 7.9 shall not constitute a waiver of the non-performance or any other rights or remedies of the Non-Defaulting Party in connection therewith.

### SECTION 10. FINANCIAL RESPONSIBILITY:

Section 10.1 shall be deleted in its entirety and the following substituted in lieu thereof:

"10.1 If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset, a

guaranty, or other acceptable forms. The issuer of any such security and/or the guarantor must also be acceptable to X at its sole discretion. X agrees to act in a reasonable manner in evaluating such issuer and/or guarantor."

Section 10.2 is amended by the addition of items (ix) and (x) in the following manner: Delete the word "or" prior to item (viii) and add, between the ";" at the end of item (viii) and prior to the word "then", the words "(ix) be in default under any Specified Transaction between the parties; (x) consolidate or amalgamate with, or merge with or into, or transfer all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such party under this Base Contract to which it or its predecessor was a party by operation of law or the resulting, surviving or transferee entity is materially weaker from a credit perspective as determined by the other party acting in good faith and in a commercially reasonable manner"

### SECTION 14. MISCELLANEOUS:

Section 14.10 is hereby amended by the deletion of item (iv) in the first sentence and the substitution of the following therefore: "(iv) to the extent such information may be aggregated with other information pertaining to purchases and sales of Gas without reference to any counterparty and furnished to such third party for the sole purpose of calculating a published index."

The following Sections shall be added:

**14.12 EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS CONTRACT.**

14.13 Each party agrees that the provisions of this Base Contract supersede and replace in their entirety any requirements of law relating to adequate assurance of future performance, including without limitation Article 2 of the Uniform Commercial Code, as enacted in New York. This notwithstanding, the parties acknowledge that this Base Contract and the Special Provisions document the terms of a contract for the sale of goods and that the applicable provisions of Article II of the Uniform Commercial Code (the "UCC") shall apply to the Transactions set forth herein.

14.14 Each party represents that the creditworthiness of the other party is a material consideration in entering into this Base Contract; and (i) it has entered into this Base Contract and shall enter into each transaction in reliance upon its own judgment or that of its investment advisors or other fiduciaries, (ii) the other party does not and will not hold out itself as advising, or any of the other party's employees or agents as having the authority to advise it as to whether or not it should enter into any transaction or as to any subsequent actions relating thereto or on any other commercial matter concerned with any transaction, (iii) the

other party shall not be acting as a fiduciary with respect to it and shall not have any responsibility or liability whatsoever in respect of any advice or information of this nature given or not given, or views expressed or not expressed, by the other party or any of the other party's employees or agents to it or any such fiduciary, whether or not such advice or information is given or such views are expressed at the request of it or any such fiduciary, and (iv) the other party shall not have any responsibility to govern or monitor the conduct of it or any such fiduciary.

14.15. Arbitration Proceedings. Any dispute or need of interpretation arising out of this Agreement or pertaining to the calculation of a Net Settlement Amount or a payment required pursuant to Section 7 may be submitted upon request of either Party to binding arbitration by one arbitrator who has not previously been employed by either Party, and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such arbitrator shall either be as mutually agreed by the Parties within thirty (30) days after written notice from either Party requesting arbitration, or failing agreement, shall be selected under the expedited rules of the American Arbitration Association (the "AAA"). Such arbitration shall be held in alternating locations of the home offices of the Parties, commencing with NiSource LDC's home office, or in any other mutually agreed upon location. The rules of the AAA shall apply to the extent not inconsistent with the rules herein specified. Either Party may initiate arbitration by written notice to the other Party and the arbitration shall be conducted according to the following: (a) [not later than seven (7) days prior to the hearing date set by the arbitrator each Party shall submit a brief with a single proposal for settlement], (b) the hearing shall be conducted on a confidential basis without continuance or adjournment, (c) [the arbitrator shall be limited to selecting only one of the two proposals submitted by the Parties], (d) each Party shall divide equally the cost of the arbitrator and the hearing and each Party shall be responsible for its own expenses and those of its counsel and representatives and (e) evidence concerning the financial position or organizational make-up of the Parties, any offer made or the details of any negotiation prior to arbitration and the cost to the Parties of their representatives and counsel shall not be permissible.

Each Party understands that this Agreement contains an agreement to arbitrate with respect to any dispute or need of interpretation pertaining to the calculation of a Net Settlement Amount or a payment required pursuant to Section 7 of this Agreement. After signing this Agreement, each Party understands that it will not be able to bring a lawsuit concerning any dispute that may arise which is covered by this arbitration provision. Instead, each Party agrees to submit any such dispute to an impartial arbitrator. Any monetary award of the arbitrator may be enforced by the Party in whose favor such monetary award is made in any court of competent jurisdiction.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO THE  
TWENTY-SECOND SET OF INFORMATION REQUESTS FROM THE ATTORNEY  
GENERAL  
D. T. E. 05-27

Date: July 13, 2005

Responsible: Joseph A. Ferro, Manager Regulatory Policy

AG-22-19      Refer to Schedule BSG/JAF-3-1, MDTE 35. Please provide a copy of the  
Company's "Supplier Service Agreement."

Response:      Please see Attachment AG-22-19 for a copy of the Supplier Service  
Agreement.

**SUPPLIER SERVICE AGREEMENT  
(Massachusetts)**

This Agreement is made as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between Bay State Gas Company, a Massachusetts corporation with a principal place of business at 300 Friberg Parkway, Westborough, Massachusetts ("Company") and \_\_\_\_\_, a \_\_\_\_\_, with a principal place of business at \_\_\_\_\_, ("Supplier") (Referred to herein individually as a "Party" and collectively as the "Parties.").

**I. BASIC UNDERSTANDINGS**

Company operates a local gas distribution company and provides transportation of third party gas on its distribution system. Company's Distribution and Default Service Terms and Conditions and related rate schedules on file with, and approved from time to time, by the Massachusetts Department of Telecommunications and Energy (collectively, "Terms and Conditions") permit transportation customers to assign their rights of nominating and scheduling delivery of gas for transportation on Company's system to a third party natural gas supplier.

Supplier seeks to nominate and schedule delivery of gas for transportation on Company's system on behalf of one or more customers ("Aggregation Group") being served on Company's distribution system.

Company's Terms and Conditions require Supplier to enter into a Supplier Service Agreement ("Agreement") with Company prior to the initiation of Supplier Service, as defined therein, for the provision of such services.

Supplier represents that it has met and shall continue to meet all applicable Company, regulatory, state, and federal requirements regarding natural gas aggregation and transportation including, but not limited to, credit worthiness under the terms of this Agreement and under Company's Terms and Conditions.

NOW THEREFORE, in consideration of mutual promises contained herein, the Parties agree as follows:

**II. SCOPE**

Company and Supplier, pursuant to this Agreement and Company's Terms and Conditions, agree to exchange and act on information relative to the nominating and the scheduling of gas for transportation on behalf of the members of the Aggregation Group. Supplier recognizes that its transportation rights under this Agreement are solely those that have been assigned to it by the members of the Aggregation Group pursuant to Company's Terms and Conditions.

Supplier further recognizes and agrees that Company shall have no obligation to honor any nomination or scheduling request from Supplier that, in Company's sole judgment, exceeds the scope of Supplier's assigned rights or where such nominations or

requests could be reasonably refused, directly or indirectly, based on the terms of this Agreement or Company's Terms and Conditions.

### **III. TERMS AND CONDITIONS**

Company's Terms and Conditions, and any and all definitions contained therein, are incorporated herein and made a part hereof, to the extent they are applicable hereto and not inconsistent with the provisions of this Agreement. In the event of a conflict, the terms of this Agreement shall control.

### **IV. CONDITIONS PRECEDENT**

The following requirements shall be conditions precedent to Company's obligations hereunder:

- Supplier shall provide Company with all information requested in Exhibits A and B attached hereto and incorporated herein.
- Company has confirmed Supplier's credit worthiness, and any reasonable deposit requested by Company from Supplier has been received by Company.
- Supplier shall register and obtain the necessary certification and/or licenses from the Massachusetts Department of Telecommunications and Energy ("MDTE") and periodically provide evidence of such to Company.
- Supplier shall provide Company with evidence satisfactory to Company that Supplier is an approved shipper on the upstream pipelines and underground storage facilities on which Company may assign capacity to Supplier.
- Supplier and Company have executed this Agreement.

### **V. SUPPLIER CERTIFICATION**

Supplier swears and avers as follows:

- Supplier is not operating under any chapter of bankruptcy laws and is not subject to liquidation or debt reduction procedures under applicable state laws, such as an assignment for the benefit of creditors, or any information creditors' committee agreement.
- Supplier is not aware of any change in business conditions, which would cause a substantial deterioration in its financial conditions, a condition of insolvency, or the inability to exist as an ongoing business entity.
- Supplier has no delinquent balances outstanding for services previously provided by Company, and that Supplier has paid its account according to the established terms and not made deductions or withheld payment for claims not authorized by contract.
- No significant collection lawsuits or judgments are outstanding which would materially affect Supplier's ability to remain solvent as a business entity.
- Supplier's business practices, advertising and marketing materials conform to all applicable Massachusetts state and federal laws and regulations.
- Supplier shall promptly provide notice to Company of any material change in its financial condition as it relates to Supplier's creditworthiness/solvency.
- Supplier shall notify Company within twenty-four (24) hours in writing upon the occurrence of an event that in any way materially affects Supplier's ability to perform pursuant to and in accordance with the terms of this Agreement



including, but not limited to, suspension, revocation, limitation or non-renewal of Supplier's certification by the MDTE.

#### **VI. NOMINATIONS**

Supplier shall communicate all nominations to Company via email. Company's email addresses to which all nominations should be communicated are set forth in Exhibit A. Company shall notify Supplier in writing in the event that any of the email addresses in Exhibit A become outdated or need to be supplemented. In the event that email is unavailable, alternative electronic means of communicating nominations may include facsimile transmission in accordance with Exhibit A.

In the event of a discrepancy between any volume nominated by Supplier and confirmed by Company resulting in a shortage, the discrepancy shall be allocated between and among supplier's Aggregation Pools in the same Gas Service Area in accordance with the Pre-Determined Allocation Method set forth in Exhibit B attached hereto and incorporated herein.

#### **VII. CAPACITY ASSIGNMENTS**

In accordance with Company's Terms and Conditions, the quantity of capacity assigned to Supplier and Supplier's Maximum Daily Peaking Quantity ("MDPQ") may be modified during the calendar year. Pursuant Company's Terms and Conditions, the quantity of each Company Managed Supply may be modified during the calendar year in accordance with Company's Terms and Conditions.

Pursuant to Company's Terms and Conditions, Supplier shall provide notice to Company of its designation of contracts to be managed by the Company for cost mitigation purposes by the means set forth in Exhibit B.

#### **VIII. FEES AND SERVICES**

Company shall charge Supplier for any and all fees set forth and allowed by Company's Terms and Conditions. Company may also charge Supplier fees for any additional services agreed to by the Parties and set forth in Exhibit A. Company shall have the right to deduct and apply any amounts owed by Supplier to Company for such fees and services, and outstanding for more than thirty (30) days, from any amounts collected in the normal course of business by Company on Supplier's behalf, from any credit balance that may have accrued on Supplier's account(s) with Company, or from any deposit Supplier may have made with Company to secure its performance and payment for debts incurred while doing business with Company or on Company's distribution system. Amounts subject to a good faith dispute will not be subject to deduction.

#### **IX. BILLING SERVICES**

Pursuant to Company's Terms and Conditions, Supplier may elect to take Standard Complete Billing Service from Company. In such an event, the Customer shall receive a combined bill from Company for both gas supply and related distribution service and any other Company provided services. Such combined bill shall be

calculated and produced by Company. Election of this service will be made by Supplier in Exhibit B of this Agreement.

Company shall calculate, print, insert and mail combined invoices to the Customer in accordance with Company's normal practices for cycle billing, off-cycle billing and budget billing, as well as the applicable provisions of Company's Terms and Conditions. Company will consider reasonable requests from Supplier for rate pricing options, where such requests are provided in writing. Supplier will be responsible for any additional processing, printing and/or programming expenses incurred by Company that result from the implementation of such a request. Company will provide Supplier with electronic files that report relevant account activity.

Supplier shall provide Company with a telephone number where sales and supplier switching inquiries as well as billing inquiries may be directed (set forth in Exhibit B). Supplier is responsible for handling customer requests to switch suppliers and such calls will not be handled by Company, unless the Customer is returning to Default Service.

Company shall respond to Customer telephone inquiries related to billing and payments and contact Customers as required to resolve/correct billing or payment problems. Company will process transactions to resolve/correct billing problems and generate correspondence as required to communicate billing information. Notwithstanding any provision of this Agreement to the contrary, Company is not offering Supplier and shall not provide or be responsible for any type of collection activities including, but not limited to, activities normally undertaken by a collection agency, debt collector or credit bureau as those terms are defined under applicable federal and state law. Acting on behalf of Supplier, Company shall acquire the right to invoice members of the Aggregation Group as soon as such members owe Supplier for services rendered. Supplier shall not transfer to Company for collection any overdue/aged accounts and Company has no obligation to accept such accounts, or present aged/overdue balances to Customers. Collection of Supplier charges remains the sole responsibility of Supplier.

Company shall provide payment processing and lock boxes for mailed payments. Company reserves the right to offer payment options consistent with existing practices and procedures. Partial payments will be applied first to any outstanding charges relating to Company Distribution Service, and second to the most overdue Supplier charges associated with the Customer. If a Customer pays Company more than the full amount billed, Company shall apply any overpayment to the Distribution Service account. Company reserves the right to enter into payment arrangements with Customers, which may or may not include Supplier charges.

Supplier shall provide timely and accurate information to Company regarding Customers, rates and any other information necessary for Company to perform hereunder, including but not limited to information concerning a Customer's filing of bankruptcy or Supplier's pursuit of collection activities. Additional processing runs caused by Supplier's failure to provide adequate information will be performed at

Supplier's sole expense. Supplier agrees that services rendered by Company shall not relieve Supplier from any obligation to maintain records or otherwise comply with applicable laws. Supplier agrees that it will maintain backup data and files for all information provided to Company as protection against any loss of such information.

Suppliers not electing the Standard Complete Billing Service will receive the Standard Passthrough Billing Service as defined in the Terms and Conditions.

**X. BILLING, PAYMENT AND DEPOSITS**

Bills, fees and charges for services provided and issued by Company, including, but not limited to, monthly cashouts, monthly imbalance charges, daily imbalance charges, and any other applicable charges approved by the Terms and Conditions or set forth in this Agreement, shall be rendered to Supplier on a monthly basis and shall be due upon receipt of said bill, unless otherwise specified in Exhibit A. In addition to any other right or remedy available to Company, Supplier's failure to make payment within ten (10) days of the posting date on the bill shall result in the addition of interest on any unpaid balance calculated at the maximum monthly rate allowable in Company's Terms and Conditions. Interest shall accrue commencing from the date said bill was posted. The posting date is the date the bill is transmitted to Supplier.

Company shall have the right to deduct, apply and withhold any amounts owed by Supplier to Company for such services, and outstanding for more than thirty (30) days, from any amounts held or accrued in the normal course of business by Company on Supplier's behalf.

At the request of Company, at any time during the term of this Agreement, Supplier shall, upon ten (10) days written notice from Company, provide a deposit equal to a dollar amount representing the greater of Supplier's average of two (2) months' historic billing with Company or the amount of any security deposit required under Company's Terms and Conditions. A deposit shall be payable in cash or certified check. All deposits shall accrue interest in accordance with Company's Terms and Conditions (hereinafter called "Interest Payment"). Such deposit shall be returned to Customer within thirty (30) days of the expiration or termination of this Agreement, provided that Supplier is not in default under this Agreement. Any such deposit may be required and held by Company for the entire term of this Agreement, regardless of Supplier's payment history. Company may deduct or set-off and apply all or any portion of the deposit when any amount payable by Supplier under this Agreement has not been paid when due. Such deduction or set-off may be made without notice or demand of any kind and Company may in its sole discretion apply such deposit against any amount then due and payable. In the event Company applies all or any portion of such deposit, Supplier shall deposit such sums as are necessary to replenish the security deposit to its maximum amount, within ten (10) days of notice of such application.

To secure the prompt payment and performance when due of any and all current or future obligations, indebtedness and liabilities, whether financial or otherwise, contingent or noncontingent, matured or unmatured, or liquidated or unliquidated, which Supplier owes to Company or any of its affiliates (collectively "Obligations"),

Supplier grants to Company a continuing security interest in any interest of Supplier in any and all gas which Supplier now or in the future may own, control or have any right or interest in and which now is or in the future may be in the possession of Company in its gas distribution system or otherwise, together with any and all products and proceeds of the foregoing (collectively "Collateral"). Supplier covenants that it will execute and deliver any documents requested by Company in order to evidence or perfect Company's security interest in Collateral and otherwise cooperate with respect to any proceeding that may affect rights of Company hereunder.

Supplier acknowledges and agrees that Company hereby exercises any right which it may have under any applicable tariff or state or federal statute to impose a lien on any and all Collateral in Company's system to secure repayment of Obligations related to such Collateral or related to gas theretofore shipped by Supplier on Company's system and delivered on behalf of Supplier. Supplier acknowledges and agrees that all of its shipments of gas on Company's system pursuant to this Agreement, and all Obligations, security deposits and other adequate assurance provided to Company by Supplier related to such shipments are part of a single, continuing transaction with Company. Subject to any law governing the liens asserted by Company hereunder, Company may dispose of Collateral by public or private sale to retail or wholesale purchasers and may itself acquire same through any such sale. Company agrees to provide Supplier reasonable notice of such sale but in no event shall it be required to give more than ten (10) days notice.

The Parties agree to cooperate and provide each other with necessary documentation relating to any transactions resulting hereunder, including but not limited to, applicable sales or other tax exemption forms. The Parties agree that Supplier's failure to remit payment of any amount due under this Agreement shall constitute a material breach of this Agreement.

#### **XI. TERM AND TERMINATION**

This Agreement shall become effective on the date hereof ("Effective Date") and shall continue in full force and effect from month to month. Supplier acknowledges and agrees that Company is obligated to commence services pursuant to this Agreement only upon full satisfaction, or Company's express written waiver, of the Conditions Precedent set forth in Section IV of this Agreement. This Agreement may be terminated by either party by written notice given no less than thirty (30) days prior to the desired termination date, or unless otherwise agreed by the Parties. Notwithstanding the foregoing, the Supplier agrees to abide by all terms of this Agreement until any transactions that are outstanding at the time of termination are completed, including, but not limited to, the payment by Supplier to Company of any and all outstanding balances.

Any party, by written notice to the other party ("Breaching Party") may terminate this Agreement, in whole or in part, with respect to such Breaching Party, or suspend further performance without terminating this Agreement upon the occurrence of any of the following: (a) the Breaching Party terminates or suspends doing business; (b) the Breaching Party becomes subject to any bankruptcy or insolvency proceeding under

federal or state law, becomes insolvent, becomes subject to direct control of a transferee, receiver or similar authority, or makes an assignment for the benefit of creditors; or (c) the Breaching Party commits a material breach of any of its obligations under this Agreement or the Terms and Conditions including, but not limited to, payment of any amounts due.

The enumeration of the foregoing remedies shall not be deemed a waiver of any other remedies to which either party is entitled in law or equity.

## **XII. NONDISCLOSURE**

Neither Party may disclose any Confidential Information obtained pursuant to this Agreement to any third party, including affiliates of such Party, without the express prior written consent of the other party. As used herein, the term "Confidential Information" shall include, but not be limited to, all business, financial, and commercial information pertaining to the Parties, Customers of either or both Parties, Suppliers for either Party, personnel of either Party; any trade secrets; and other information of a similar nature; whether written or in intangible form that is marked proprietary or confidential with the appropriate owner's name.

Confidential Information shall not include information known to either Party prior to obtaining the same from the other Party, information in the public domain, or information obtained by a Party from a third party who did not, directly or indirectly, receive the same from the other Party to this Agreement or from a Party who was under an obligation of confidentiality to the other Party to this Agreement, or information developed by either Party independent of any Confidential Information. The receiving Party shall use the higher of the standard of care that the receiving Party uses to preserve its own Confidential Information or a reasonable standard of care to prevent unauthorized use or disclosure of such Confidential Information. Each receiving Party shall, upon termination of this Agreement or at any time upon the request of the disclosing Party, promptly return or destroy all Confidential Information of the disclosing Party then in its possession.

Notwithstanding the preceding, Confidential Information may be disclosed to any governmental, judicial or regulatory authority requiring such Confidential Information pursuant to any applicable law, regulation, ruling, or order, provided that: (a) such Confidential Information is submitted under any applicable provision, if any, for confidential treatment by such governmental, judicial or regulatory authority; and (b) prior to such disclosure, the other Party is given prompt notice of the disclosure requirement so that it may take whatever action it deems appropriate, including intervention in any proceeding and the seeking of any injunction to prohibit such disclosure. In addition, nothing in this Agreement shall prohibit Company from communicating to its customers and prospective customers information regarding Supplier's approval to do business on Company's distribution system. Obligations under this Section XII shall survive the termination or expiration of this Agreement.

## **XIII. INDEMNIFICATION AND LIMITATION OF LIABILITY**

Supplier agrees that it shall indemnify, defend and hold harmless Company with respect to any claim, suit, damages or costs of any kind arising from any action or inaction of Company in reliance upon the nominations, scheduling instructions or other communications from Supplier or from a member of the Aggregation Group. The Parties agree that reliance on such instructions and communications shall be deemed reasonable and shall not constitute negligence. To the fullest extent allowed by law, the parties agree that the Company shall not, except to the extent of its own gross negligence, or intentional misconduct, be liable to the Supplier or any party claiming through it for any loss or damages by reason of any work or services including, but not limited to, transportation of gas or other services performed or undertaken to be performed, under this Agreement. To the fullest extent allowed by law, the Parties agree that Company shall not be liable to Supplier or any party claiming through Supplier, for special, consequential, exemplary, indirect, incidental, punitive damages or lost profits. The provisions of this Section XIII shall survive the termination or expiration of this Agreement.

#### **XIV. DISPUTE RESOLUTION**

Disputes hereunder shall be reduced to writing and referred to the Parties' representatives for resolution. The Parties representatives shall meet and make all reasonable efforts to resolve the dispute. Pending resolution, the Parties shall continue to fulfill their obligations under this Agreement in good faith, unless this Agreement has been suspended or terminated. If the Parties fail to resolve the dispute within thirty (30) days, they may mutually agree to pursue mediation or arbitration to resolve such issues.

The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Commonwealth of Massachusetts, without regard to the doctrines governing choice of law. All disputes arising hereunder shall be brought and heard either before the MDTE or in the state courts of the Commonwealth of Massachusetts.

The Company's compliance with the order or finding of any governmental agency or court properly exercising jurisdiction over this Agreement or the services rendered hereunder shall not constitute a breach of this Agreement.

#### **XV. NOTICES**

Except as otherwise provided herein, any notices given under this Agreement shall be in writing and shall be delivered to the addresses set forth below, by hand or sent by (i) certified mail, return receipt requested, first class postage prepaid, (ii) telecopy, or (iii) nationally recognized courier service. Notices, given hereunder shall be deemed to have been given upon receipt or any refusal to accept; telecopied notices shall be deemed to have been given upon confirmation of their receipt.

If to Company:

LDC: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

If to Supplier:

Supplier: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

#### **XVI. SUCCESSORS AND ASSIGNS**

Any entity which shall succeed by purchase, merger or consolidation to the assets, substantially or as an entity, of either Party hereto shall be entitled to the rights and shall be subject to the obligations of its predecessor in interest under this Agreement. Company may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to an entity with which it is affiliated, but otherwise no assignment of this Agreement or any of the rights or obligations hereunder shall be made unless there first shall have been obtained the written consent of the other Party. It is agreed, however, that the restrictions on assignment contained herein shall not in any way prevent either Party from pledging or mortgaging its rights hereunder as security for its indebtedness.

#### **XVII. OTHER IMPORTANT PROVISIONS**

No waiver by any Party of any one or more defaults by the other in the performance of any provision of this Agreement shall operate or be construed as a waiver of any other present or future default or defaults, whether of a like or of a different character. No delay by either party in enforcing any of its rights hereunder shall be deemed a waiver of such rights.

Company shall render service and shall perform hereunder through utilization of existing facilities, licenses and authorizations. Nothing in this Agreement shall be construed as requiring Company to acquire or obtain additional facilities, licenses or authorizations. Any activity hereunder which requires any additional licenses, facilities or authorizations may be discontinued by Company and such discontinuance shall not constitute a breach of this Agreement.

Unless otherwise provided herein, no modification of, or supplement to, the terms and provisions stated in this Agreement shall be or become effective without the written consent of both Parties.

Supplier waives any and all rights to contest any motion by Company for relief from the automatic stay provided for under federal bankruptcy law or under any similar provision of any state law.

Supplier shall not obtain any right or interest in any hardware or software or information used by Company to provide any service to Supplier hereunder.

For the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by Company's Terms and Conditions and/or this Agreement, to the fullest extent authorized by law, effective upon the breach of this Agreement by Supplier, Supplier hereby irrevocably constitutes and appoints Company its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any instruments or financing statement and do and perform any acts that are referred to herein in the name and behalf of Supplier. The power vested in said attorney-in-fact is, and shall be deemed to be, coupled with an interest and cannot be revoked.

This Agreement, all Exhibits and attachments hereto and all documents referenced herein, constitute the entire agreement between the Parties pertaining to the subject matter hereof. The language contained in Section I, Basic Understandings, is incorporated herein and shall have the same legal significance as any other language in this Agreement.

In the event any provision of this Agreement is deemed invalid or unenforceable in a forum of competent jurisdiction, the Agreement shall be construed as though such provision does not appear, and the Agreement shall be otherwise fully enforceable. Headings contained in this Agreement are for convenience only and shall not be construed to define or limit any terms herein, or otherwise affect the meaning or interpretation of this Agreement. This Agreement shall not be interpreted either more or less favorably towards any Party by virtue of the fact that such Party or its counsel was responsible or principally responsible for the drafting of all or a portion hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day first herein above written.

COMPANY:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SUPPLIER:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, SS. \_\_\_\_\_, 2000

Personally appeared the above-named \_\_\_\_\_(title), of \_\_\_\_\_(Company), as aforesaid, who swore that he/she has the authority to execute the foregoing instrument and that such execution was his/her free act and deed in his/her said capacity and the free act and deed of said entity.

Before me: \_\_\_\_\_

Notary Public: \_\_\_\_\_

Date: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, SS. \_\_\_\_\_, 2000

Personally appeared the above-named \_\_\_\_\_(title), of \_\_\_\_\_(Supplier), as aforesaid, who swore that he/she has the authority to execute the foregoing instrument and that such execution was his/her free act and deed in his/her said capacity and the free act and deed of said entity.

Before me: \_\_\_\_\_

Notary Public: \_\_\_\_\_

Date: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **EXHIBIT A**

### **CONDITIONS PRECEDENT**

- Completed supplier application

### **NOMINATIONS**

- All nominations should be emailed to each of the following individuals:
  - Candy Burdick - [cburdick@bgc.com](mailto:cburdick@bgc.com)
  - Maureen Corbeille - [mcorbeille@bgc.com](mailto:mcorbeille@bgc.com)
  - Norma Porro - [nporro@bgc.com](mailto:nporro@bgc.com)
  - Maureen Mugavero - [mmugavero@bgc.com](mailto:mmugavero@bgc.com)
- In the event that email is unavailable, nominations should be submitted to Company via facsimile, using the following phone numbers:
  - Ludlow Nominations - (413) 583-8349
  - Transportation Services - (508) 870-2294

### **ADDITIONAL FEES AND SERVICES**

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### **BILLING AND PAYMENT**

- Supplier payments should be wired to Company at:

Bay State Gas Company  
Fleet Bank  
ABA # 011000390  
Account No. 525-68631

## EXHIBIT B

### **Company's Terms and Conditions defines *PreDetermined Allocation Method***

**as:** Instructions from the Supplier to the Company for the allocation of discrepancies in confirmed nominations among the Supplier's Aggregation Pools and/or Customers as set forth in the Supplier's Service Agreement.

Supplier instructs Company to allocate any such discrepancies as follows:

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If Supplier does not establish a Predetermined Allocation Method herein, Company will allocate any such discrepancy on a pro rata basis.

For example:

- Supplier has both a daily-metered and non-daily metered Aggregation Pool in Company's Brockton Gas Service Area.
- On a given day, Supplier nominates 1000 DT for its daily-metered pool and 500 DT for its non-daily metered pool.
- A pipeline cut of 300 DT is confirmed.
- Since of the total amount nominated by Supplier for the day (1,500 DT), 67% of it was intended for its daily-metered pool (1,000 DT of the 1,500 DT total), 67% of the cut would be allocated to the daily metered pool (200 DT) and 33% of the cut (100 DT) would be allocated to the non-daily metered pool since 33% of the total amount nominated for the day (500 DT of the 1,500 DT total).
- Accordingly, 800 DT would be allocated as confirmed for the daily-metered pool and 400 DT would be allocated as confirmed for the non-daily metered pool.

### **Capacity Mitigation Service**

Capacity Mitigation Service is available to Suppliers that have been assigned capacity pursuant to the Terms and Conditions.

The Supplier designates the following contracts that would otherwise be released to the Supplier pursuant to the Terms and Conditions, as contracts to be managed by the Company for cost mitigation in accordance with the Company's Capacity Mitigation Service. Such designation will be effective for the period November 1 through October 31. Notification of renewal of this service must be provided by October 25<sup>th</sup> of each calendar year. The Supplier shall receive a credit on its bill for Capacity Mitigation Service equal to the pro-rata share of the proceeds earned from the marketing of such capacity contracts, less 15 percent, which will be retained by the Company in exchange for such contract management. Such credit shall be determined on a contract-specific

basis at the end of each Month, and will be included in the bill sent to the Supplier in the following Month.

Contracts eligible for Capacity Mitigation service:

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**Election of Billing Option:**

Supplier elects one of the following billing options for all customers:

- ☐ Standard Complete Billing Service
- ☐ Standard Passthrough Billing Service

Suppliers not electing the Standard Complete Billing Service will receive the Standard Passthrough Billing Service as defined in the Terms and Conditions.

Supplier telephone number for billing related questions:

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Supplier telephone number for sales and supplier switching inquiries:

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COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO THE  
TWENTY-SIXTH SET OF INFORMATION REQUESTS FROM THE ATTORNEY  
GENERAL  
D. T. E. 05-27

Date: July 13, 2005

Responsible: Joseph A. Ferro, Manager, Regulatory Policy

AG-26-1      Please rewrite the ABRAM tariff without the SIR provisions. In other words, provide an ABRAM tariff that the Company would have proposed if it had not also proposed the SIR mechanism. Include a clean and redlined copy.

Response:    Please see Attachment AG-26-1(A) and Attachment AG-26-1(B) which are the respective clean and redlined tariff sheets.

**BAY STATE GAS COMPANY**

**M.D.T.E. No. 63  
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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

### **Section**

- 1.0** Purpose
- 2.0** Effective Date
- 3.0** Applicability
- 4.0** Definitions
- 5.0** Annual Base Rate Adjustment Formula
- 6.0** Determination of Initial Base Rates
- 7.0** Calculation of PBR Annual Rate Adjustment
- 8.0** Calculation of Energy Efficiency Adjustment Factor
- 9.0** Reporting Requirements
- 10.0** Currently Effective Rate Adjustment Table

### **1.0 Purpose**

The purpose of the Annual Base Rate Adjustment Mechanism ("ABRAM") is to establish procedures that allow Bay State Gas Company ("Bay State" or the "Company") subject to the jurisdiction of the Department of Telecommunications and Energy ("Department") to adjust, on an annual basis, its base rates for firm gas sales and firm transportation service pursuant to the Company's Performance Based Rate ("PBR") program and to reflect the annualized impact of energy efficiency savings ("EES"). The PBR program encompasses a price cap rate indexing mechanism, as well as earnings sharing above and below established thresholds and recovery of exogenous costs. EES are the therm savings attributable to the installation of demand-side management ("DSM") measures pursuant to the Company's DSM programs as approved by the Department from time-to-time.

**BAY STATE GAS COMPANY**

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

### **2.0 Effective Date**

The ABRAM shall be effective June 1, 2005 and shall continue subject to the terms of the PBR mechanism set forth below. The initial rates established in accordance with Section 6.0 shall remain in effect until October 31, 2006. Subsequent base rate adjustments shall occur so long as either the PBR mechanism remains effective or EES continue to be realized. In the event that both the PBR mechanism is terminated and EES are no longer realized, the Company's base rates, as adjusted pursuant to the ABRAM, shall remain in effect until modified by the Department pursuant to a subsequent base rate proceeding.

### **2.1 Term of PBR Base Rate Adjustment Mechanism**

The PBR Base Rate Adjustment mechanism shall continue for a term of five years through October 31, 2010. No further adjustment to the PBR component of the ABRAM shall occur after the completion of the five-year term ending October 31, 2010.

### **3.0 Applicability**

This mechanism shall apply an adjustment to the base rates of each of the Company's firm sales and firm transportation Rate Schedules, subject to the jurisdiction of the Department, as determined in accordance with the provisions of this mechanism. Such ABRAM shall be determined annually by the Company as defined below, subject to review and approval by the Department as provided for in this mechanism.

### **4.0 Definitions**

The following definitions shall apply throughout the provisions of the ABRAM tariff.

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Issued by: Stephen H. Bryant  
President

Issued On: April 27, 2005  
Effective: June 1, 2005

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BAY STATE GAS COMPANY

M.D.T.E. No. 63  
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### ANNUAL BASE RATE ADJUSTMENT MECHANISM

- (1) **Base Rate Element** is any customer, volumetric or demand charge reflected in the Company's Rate Schedules that recovers a portion of the Company's base revenue requirement as established by the Department in its most recent base rate case.
- (2) **Base Rates** are the compilation of Base Rate Elements for all of the Company's Rate Schedules
- (3) **Calendar Year** is the annual period beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>.
- (4) **Customer Class** is the group of customers all taking service pursuant to the same Rate Schedule.
- (5) **Energy Efficiency Savings** shall be the annualized therm savings attributable to energy efficiency measures installed during the Calendar Year.
- (6) **Off-peak Period** is the continuous period from May 1<sup>st</sup> through October 31<sup>st</sup>.
- (7) **PBR Adjusted Base Rate** is the base rate in effect for the Prior Year plus the rate change calculated through the application of the PBR Price Cap Formula to the base rates in effect for the Prior Year.
- (8) **PBR Price Cap Formula** is the mathematical expression set forth in Section 7.3 used to calculate the percentage change in Base Rates for the Rate Year.
- (9) **Peak Period** is the continuous period from November 1<sup>st</sup> through April 30<sup>th</sup>.
- (10) **Prior Year** is the annual period ending immediately prior to the Rate Year.
- (11) **Rate Year** is the annual period that the adjusted base rates shall be effective beginning on November 1<sup>st</sup>.



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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

### 5.0 Annual Base Rate Adjustment Formula

The annual base rate adjustment formula shall be applied for each Base Rate Element of each Rate Schedule and shall be calculated in accordance with the following formula:

$$BR_T^{n,e} = BR_{T-1}^{n,e} \times (1 + PBR\_CAP_T^{n,e}) \times (1 + EE\_ADJ_T^{n,e})$$

#### Where:

$BR_T^{n,e}$	The Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year
$BR_{T-1}^{n,e}$	The Base Rate Element $e$ applicable to Rate Schedule $n$ for the Prior Year
$PBR\_CAP_T^{n,e}$	The percentage change for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year calculated pursuant to the Company's PBR Program.
$EE\_ADJ_T^{n,e}$	The Energy Efficiency Adjustment Percentage for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year

### 6.0 Determination of Initial Base Rates

The initial base rates shall be those established by the Department in Docket No. D.T.E. 05-27. The initial base rates shall be set forth in Column (F) of the Currently Effective Rate Adjustment Table contained in Section 10.0 to be effective through October 31, 2006. The first ABRAM change to the initial base rates shall be effective November 1, 2006.

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Issued by: Stephen H. Bryant  
President

Issued On: April 27, 2005  
Effective: June 1, 2005

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BAY STATE GAS COMPANY

M.D.T.E. No. 63  
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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

### 7.0 Calculation of PBR Annual Rate Adjustment

#### 7.1 Description of PBR Program

The Company's PBR program replaces traditional cost of service ratemaking with an incentive-based mechanism. The PBR program includes price cap, earnings sharing and exogenous components. The price cap component limits the change in base rates to the rate of input price inflation representative of the gas distribution industry less offsets for productivity and a consumer dividend. The earnings sharing component provides for sharing of earnings that are outside symmetrical bands above and below Bay State's authorized Return on Equity. The exogenous cost component allows the Company to reflect costs or credits in the PBR mechanism that derive from unanticipated events that are beyond Bay State's direct control.

#### 7.2 Definitions

- (1) **Average Unit Price** shall be the price per therm calculated by dividing the total base revenues for the Customer Class for the Prior Year by the normalized annual throughput for the class for the Prior Year.
- (2) **Basis Point** shall be one one-hundredth of a percentage point.
- (3) **Consumer Dividend** is the benefit to consumers of future productivity gains attributable to performance-based ratemaking for Bay State's services as established by the Department in D.T.E. 05-27.
- (4) **Earnings Sharing Bandwidth** is the percentage range equal to 400 Basis Points below the percentage Return on Equity authorized by the Department to 400 Basis Points above the percentage Return on Equity authorized by the Department.

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### ANNUAL BASE RATE ADJUSTMENT MECHANISM

- (5) **Exogenous Events** are occurrences that have a material and disproportionate impact on Bay State that are beyond the Company's control and are not otherwise reflected in the PBR formula.
- (6) **Input Price Trend** is the measure of change in the prices for all inputs used to provide regulated gas distribution services.
- (7) **Productivity Trend** is the measure of change in productivity associated with providing regulated gas distribution services.
- (8) **Return on Equity** is the allowed rate of return on equity as established in D.T.E. 05-27.
- (9) **X Factor** is the productivity growth index as established by the Department in D.T.E. 05-27.
- (10) **Z Factor** is the sum of the cost impacts of material Exogenous Events.

#### 7.3 **PBR Price Cap Adjustment Formula**

$$\text{PBR\_CAP}_T = (\text{GDPPI}_{T-1} - X) + \frac{(\text{Z}_{\text{REV}} + \text{ESM}_{\text{REV}})}{\text{BASE\_REV}_{T-1}}$$

and:

$$\text{BASE\_REV}_{T-1} = \sum_{n=1}^{n=i} \sum_{e=1}^{e=j} \text{BR}_{T-1}^{n,e} \times \text{BD}^{n,e}$$

**BAY STATE GAS COMPANY**

**M.D.T.E. No. 63**  
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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

**and:**

$$X = \text{TFPT}_{\text{GDI-US}} + \text{IPT}_{\text{GDI-US}} + \text{CD}$$

**Where:**

$\text{PBR\_CAP}_T$	The percentage change in the Average Unit Price for all Rate Schedules pursuant to Bay State's PBR Program.
$\text{GDPPI}_{T-1}$	The average annual percentage change in the United States Gross Domestic Product Price Inflation for the four most recent quarterly reporting periods as of the second quarter of the Calendar Year as published by the United States Department of Commerce.
$X$	The productivity or X Factor, which shall be the sum of the Productivity Trend differential, Input Price Trend differential, and the Consumer Dividend, as established by the Department in D.T.E. 05-27.
$Z_{\text{REV}}$	The sum of cost impacts of all Exogenous Events, positive or negative, as provided for in Section 7.5.
$\text{ESM}_{\text{REV}}$	The earnings to be shared with customers under the mechanism specified in Section 7.7.
$\text{BASE\_REV}_{T-1}$	The base revenues calculated by multiplying each Base Rate Element shown in Column (B) of the Currently Effective Rate Adjustment Table in Section 10 for each Company Rate Schedule, by the corresponding weather-normalized billing determinants for the most recent Calendar Year.
$I$	The total number of firm Rate Schedules to which the ABRAM is applicable.

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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

$J$	The total number of Base Rate Elements for Rate Schedule $n$ .
$BR_{T-1}^{n,e}$	The Base Rate Element $e$ shown in Column (B) of the Currently Effective Rate Adjustment Table for Rate Schedule $n$ .
$BD^{n,e}$	The most recent Calendar Year weather-normalized billing determinants corresponding to Base Rate Element $e$ applicable to Rate Schedule $n$ .
$TPT_{GDI-US}$	The total Productivity Trend differential between the gas distribution industry in the Northeast and the overall United States economy as approved by the Department in D.T.E. 05-27.
$IPT_{GDI-US}$	The total Input Price Trend differential between the gas distribution industry in the Northeast and the overall United States economy, as approved by the Department in D.T.E. 05-27.
CD	The Consumer Dividend, as approved by the Department in D.T.E. 05-27.

### 7.4 PBR Annual Rate Adjustment

The Company may apply a non-uniform percentage change to each Base Rate Element of each firm Rate Schedule so long as the change in the Average Unit Price for the Customer Class is equal to the PBR Price Cap Adjustment. For purposes of calculating the Average Unit Price, the Company shall employ the weather-normalized billing determinants for the previous Calendar Year. The maximum percentage change to any individual Base Rate Element pursuant to the PBR mechanism shall be sum of the PBR Price Cap Adjustment and the X Factor.

### 7.5 Exogenous Events

The costs and/or cost reductions associated with unforeseen Exogenous Events that are

**BAY STATE GAS COMPANY**

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

beyond Bay State's control that occurred during the most recent Calendar Year and that are not reflected in the elements of the PBR price cap formula may be included in the PBR mechanism through the Z Factor. Examples of Exogenous Events are changes in tax laws that uniquely affect the local gas distribution industry, changes in accounting rules that uniquely affect the local gas distribution industry, and regulatory, legislative or judicial actions that uniquely affect the local gas distribution industry. Only material Exogenous Events, i.e. with cost impacts in excess of \$600,000 positive or negative, shall be reflected in the Z Factor. The eligibility of the cost impacts of Exogenous Events for inclusion in the Z Factor shall be reviewed by the Department.

### **7.6 Revenue Exclusions**

Base Rate revenue requirement items that are recovered through separate tracking mechanisms shall be excluded from the price indexing formula. The Company's Pension and Benefit Costs recovered through the Local Distribution Adjustment Clause shall be excluded from the PBR program.

### **7.7 Earnings Sharing**

An Earnings Sharing component of the PBR program provides the Company and its Customers with protections in the event that the productivities achieved under the proposed program deviate materially from those anticipated and reflected in the PBR Price Cap Formula. In the event that the Company's actual Return on Equity for any annual period beginning January 1<sup>st</sup> of the years 2006 through the term of the PBR program is outside of the Earnings Sharing Bandwidth, the difference between actual earnings and earnings calculated at the authorized Return on Equity shall be shared 75% to the Company and 25% to Customers. There shall be no earnings sharing when the Company's actual Return on Equity falls within the Earnings Sharing Bandwidth. The Company's net income and year-ending common equity balances as reported in its annual

**BAY STATE GAS COMPANY**

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

report to the Department shall be used to calculate the level of earnings sharing.

### **7.8 Information to be Filed with the Department**

On or before June 1<sup>st</sup> of each year, the Company shall file information and supporting schedules with the Department necessary for the Department to review and approve the PBR Base Rate Adjustment to be included in the ABRAM for the subsequent Rate Year. Such information shall include the results of the calculation of the PBR Price Cap Adjustment Formula, descriptions and accounting of any Exogenous Events, and an earnings sharing calculation.

## **8.0 Calculation of Energy Efficiency Adjustment Factor**

### **8.1 Applicability**

The volumetric rates for firm Customer Classes that participate in the Company's energy efficiency programs shall be further adjusted to reflect the annualized impact of energy efficiency programs on the therm gas use of firm Customer Classes for the previous Calendar Year. The adjustment shall be calculated on a percentage basis for each Base Rate Element.

### **8.2 Determination of Energy Efficiency Savings**

The Company shall calculate the therm gas use impact of the energy efficiency measures installed during the previous Calendar Year. The therm savings shall be annualized to reflect a full year's impact. The annualized therm savings shall be broken down by Customer Class and further disaggregated by Peak Period and Off-peak Period and by head and tail block, where applicable.

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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

### 8.3 Energy Efficiency Adjustment Factor Formula

$$EE\_ADJ_T^{n,e} = \frac{BD^{n,e}}{BD^{n,e} - EE^{n,e}} - 1$$

#### Where:

$EE\_ADJ_T^{n,e}$	The Energy Efficiency Adjustment Percentage for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year
$BD^{n,e}$	The most recent Calendar Year weather-normalized billing determinants corresponding to Base Rate Element $e$ applicable to Rate Schedule $n$ .
$EE^{n,e}$	The annualized Energy Efficiency savings for the most recent Calendar Year associated with Base Rate Element $e$ applicable to Rate Schedule $n$ .

### 8.4 Information to be Filed with the Department

On or before June 1<sup>st</sup> of each year, the Company shall file information and supporting schedules with the Department necessary for the Department to review and approve the Energy Efficiency Adjustment to be included in the ABRAM for the subsequent Rate Year. Such information shall include a description of the energy efficiency measures installed and associated therm savings by Rate Schedule.

### 9.0 Information Required to be Filed with the Department

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Issued by: Stephen H. Bryant  
President

Issued On: April 27, 2005  
Effective: June 1, 2005

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**BAY STATE GAS COMPANY**

**M.D.T.E. No. 63**  
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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

Information pertaining to all of the components of the Annual Base Rate Adjustment Mechanism is to be filed with the Department as specified in Sections 7 and 8. In addition, the Company shall file revised tariff sheets reflecting the impact of applying the base rate changes provided for herein.

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Issued by: Stephen H. Bryant  
President

Issued On: April 27, 2005  
Effective: June 1, 2005

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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

### 10.0 Currently Effective Rate Adjustment Table

Customer Class And Charge	Previously Effective Rates	Currently Effective Rates			
	Base Rate Note 1/ (B)	PBR ADJ % Note 2/ (C)	PBR Adjusted Base Rate (1+B) * (C) (D)	Energy Eff. % Note 3/ (E)	TOTAL Base Rate (D) x (1 + E) (F)
<b>R-1</b>					
Customer Charge	\$11.60	TBD	TBD	TBD	\$11.60
Peak 0-12 therms	0.2393	TBD	TBD	TBD	0.2393
Peak 12+ therms	0.1928	TBD	TBD	TBD	0.1928
Off-Peak 0-10 therms	0.2393	TBD	TBD	TBD	0.2393
Off-Peak 10+ therms	0.1928	TBD	TBD	TBD	0.1928
<b>R-2</b>					
Customer Charge	\$6.25	TBD	TBD	TBD	\$6.25
Peak	0.1158	TBD	TBD	TBD	0.1158
Off-Peak	0.1158	TBD	TBD	TBD	0.1158
<b>R-3</b>					
Customer Charge	\$12.10	TBD	TBD	TBD	\$12.10
Peak 0-125 therms	0.3183	TBD	TBD	TBD	0.3183
Peak 90+ therms	0.2224	TBD	TBD	TBD	0.2224
Off-Peak 0-125 therms	0.3183	TBD	TBD	TBD	0.3183
Off-Peak 30+ therms	0.2224	TBD	TBD	TBD	0.2224
<b>R-4</b>					
Customer Charge	\$6.25	TBD	TBD	TBD	\$6.25
Peak	0.0708	TBD	TBD	TBD	0.0708
Off-Peak	0.0708	TBD	TBD	TBD	0.0708
<b>OL</b>					
Per Light per Month	\$2.58	TBD	TBD	TBD	\$2.58
<b>G-40</b>					

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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

Customer Class And Charge	Previously Effective Rates	Currently Effective Rates			
	Base Rate	PBR ADJ %	PBR Adjusted Base Rate	Energy Eff. %	TOTAL Base Rate
	Note 1/ (B)	Note 2/ (C)	(1+B) * (C) (D)	Note 3/ (E)	(D) x (1 + E) (F)
Customer Charge	\$19.00	TBD	TBD	TBD	\$19.00
Peak	0.3090	TBD	TBD	TBD	0.3090
Off-Peak	0.3090	TBD	TBD	TBD	0.3090

<b>G-50</b>					
Customer Charge	\$19.00	TBD	TBD	TBD	\$19.00
Peak	0.2818	TBD	TBD	TBD	0.2818
Off-Peak	0.2818	TBD	TBD	TBD	0.2818
<b>G-41</b>					
Customer Charge	\$65.00	TBD	TBD	TBD	\$65.00
Peak	0.1920	TBD	TBD	TBD	0.1920
Off-Peak	0.1216	TBD	TBD	TBD	0.1216
<b>G-51</b>					
Customer Charge	\$65.00	TBD	TBD	TBD	\$65.00
Peak	0.1774	TBD	TBD	TBD	0.1774
Off-Peak	0.0826	TBD	TBD	TBD	0.0826
<b>G-42</b>					
Customer Charge	\$213.00	TBD	TBD	TBD	\$213.00
Peak	0.1794	TBD	TBD	TBD	0.1794
Off-Peak	0.0778	TBD	TBD	TBD	0.0778
<b>G-52</b>					
Customer Charge	\$213.00	TBD	TBD	TBD	\$213.00
Peak	0.1682	TBD	TBD	TBD	0.1682
Off-Peak	0.0657	TBD	TBD	TBD	0.0657

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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

Customer Class And Charge	Previously Effective Rates	Currently Effective Rates			
	Base Rate	PBR ADJ %	PBR Adjusted Base Rate	Energy Eff. %	TOTAL Base Rate
	Note 1/	Note 2/	(1+B) * (C)	Note 3/	(D) x (1 + E)
(A)	(B)	(C)	(D)	(E)	(F)
<b>G-43</b>					
Customer Charge	\$781.00	TBD	TBD	TBD	\$781.00
Peak	0.0507	TBD	TBD	TBD	0.0507
Off-Peak	0.0193	TBD	TBD	TBD	0.0193
Peak Demand	2.1586	TBD	TBD	TBD	2.1586
Off-Peak Demand	0.6713	TBD	TBD	TBD	0.6713

<b>G-53</b>					
Customer Charge	\$781.00	TBD	TBD	TBD	\$781.00
Peak	0.0507	TBD	TBD	TBD	0.0507
Off-Peak	0.0193	TBD	TBD	TBD	0.0193
Peak Demand	2.1586	TBD	TBD	TBD	2.1586
Off-Peak Demand	0.6713	TBD	TBD	TBD	0.6713

Notes: 1/ From Column (F) of the previous year's Annual Base Rate Adjustment Filing Rate Table.  
2/ Calculated in accordance with Section 7.4.  
3/ Calculated in accordance with Section 8.3.  
TBD – To be determined initially in the Company's first Annual Base Adjustment Mechanism filing.

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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

**and:**

$$X = \text{TFPT}_{\text{GDI-US}} + \text{IPT}_{\text{GDI-US}} + \text{CD}$$

**Where:**

PBR_CAP <sub>T</sub>	The percentage change in the Average Unit Price for all Rate Schedules pursuant to Bay State's PBR Program.
GDPPI <sub>T-1</sub>	The average annual percentage change in the United States Gross Domestic Product Price Inflation for the four most recent quarterly reporting periods as of the second quarter of the Calendar Year as published by the United States Department of Commerce.
X	The productivity or X Factor, which shall be the sum of the Productivity Trend differential, Input Price Trend differential, and the Consumer Dividend, as established by the Department in D.T.E. 05-27.
Z <sub>REV</sub>	The sum of cost impacts of all Exogenous Events, positive or negative, as provided for in Section 7.5.
ESM <sub>REV</sub>	The earnings to be shared with customers under the mechanism specified in Section 7.7.
BASE_REV <sub>T-1</sub>	The base revenues calculated by multiplying each Base Rate Element shown in Column (B) of the Currently Effective Rate Adjustment Table in Section <del>44-10</del> for each Company Rate Schedule, by the corresponding weather-normalized billing determinants for the most recent Calendar Year.

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### **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

<del><math>SIR\_REV_{T+1}</math></del>	<del>The SIR Revenues calculated by multiplying each SIR Base Rate shown in Column (C) of the Currently Effective Rate Adjustment Table in Section 11 for each Company Rate Schedule by the corresponding weather-normalized billing determinants for the most recent Calendar Year.</del>
$I$	The total number of firm Rate Schedules to which the ABRAM is applicable.
$J$	The total number of Base Rate Elements for Rate Schedule $n$ .
$BR_{T-1}^{n,e}$	The Base Rate Element $e$ shown in Column (B) of the Currently Effective Rate Adjustment Table for Rate Schedule $n$ .
$BD^{n,e}$	The most recent Calendar Year weather-normalized billing determinants corresponding to Base Rate Element $e$ applicable to Rate Schedule $n$ .
<del><math>BR\_SIR_{T+1}^{n,e}</math></del>	<del>The SIR Base Rate <math>e</math> shown in Column (C) of the Currently Effective Rate Adjustment Table for Rate Schedule <math>n</math>.</del>
$TPT_{GDI-US}$	The total Productivity Trend differential between the gas distribution industry in the Northeast and the overall United States economy as approved by the Department in D.T.E. 05-27.
$IPT_{GDI-US}$	The total Input Price Trend differential between the gas distribution industry in the Northeast and the overall United States economy, as approved by the Department in D.T.E. 05-27.
$CD$	The Consumer Dividend, as approved by the Department in D.T.E. 05-27.

#### **7.4 PBR Annual Rate Adjustment**

The Company may apply a non-uniform percentage change to each Base Rate Element of

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

each firm Rate Schedule so long as the change in the Average Unit Price for the Customer Class is equal to the PBR Price Cap Adjustment. For purposes of calculating the Average Unit Price, the Company shall employ the weather-normalized billing determinants for the previous Calendar Year. The maximum percentage change to any individual Base Rate Element pursuant to the PBR mechanism shall be sum of the PBR Price Cap Adjustment and the X Factor.

### **7.5 Exogenous Events**

The costs and/or cost reductions associated with unforeseen Exogenous Events that are beyond Bay State's control that occurred during the most recent Calendar Year and that are not reflected in the elements of the PBR price cap formula may be included in the PBR mechanism through the Z Factor. Examples of Exogenous Events are changes in tax laws that uniquely affect the local gas distribution industry, changes in accounting rules that uniquely affect the local gas distribution industry, and regulatory, legislative or judicial actions that uniquely affect the local gas distribution industry. Only material Exogenous Events, i.e. with cost impacts in excess of \$600,000 positive or negative, shall be reflected in the Z Factor. The eligibility of the cost impacts of Exogenous Events for inclusion in the Z Factor shall be reviewed by the Department.

### **7.6 Revenue Exclusions**

Base Rate revenue requirement items that are recovered through separate tracking mechanisms shall be excluded from the price indexing formula. The Company's ~~SIR program costs described in Section 9~~ and Pension and Benefit Costs recovered through the Local Distribution Adjustment Clause shall be excluded from the PBR program.

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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

**7.7 Earnings Sharing**

An Earnings Sharing component of the PBR program provides the Company and its Customers with protections in the event that the productivities achieved under the proposed program deviate materially from those anticipated and reflected in the PBR Price Cap Formula. In the event that the Company's actual Return on Equity for any annual period beginning January 1<sup>st</sup> of the years 2006 through the term of the PBR program is outside of the Earnings Sharing Bandwidth, the difference between actual earnings and earnings calculated at the authorized Return on Equity shall be shared 75% to the Company and 25% to Customers. There shall be no earnings sharing when the Company's actual Return on Equity falls within the Earnings Sharing Bandwidth. The Company's net income and year-ending common equity balances as reported in its annual report to the Department shall be used to calculate the level of earnings sharing.

**7.8 Information to be Filed with the Department**

On or before June 1<sup>st</sup> of each year, the Company shall file information and supporting schedules with the Department necessary for the Department to review and approve the PBR Base Rate Adjustment to be included in the ABRAM for the subsequent Rate Year. Such information shall include the results of the calculation of the PBR Price Cap Adjustment Formula, descriptions and accounting of any Exogenous Events, and an earnings sharing calculation.

**8.0 Calculation of Energy Efficiency Adjustment Factor**

**8.1 Applicability**

The volumetric rates for firm Customer Classes that participate in the Company's energy



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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

efficiency programs shall be further adjusted to reflect the annualized impact of energy efficiency programs on the therm gas use of firm Customer Classes for the previous Calendar Year. The adjustment shall be calculated on a percentage basis for each Base Rate Element.

### 8.2 Determination of Energy Efficiency Savings

The Company shall calculate the therm gas use impact of the energy efficiency measures installed during the previous Calendar Year. The therm savings shall be annualized to reflect a full year's impact. The annualized therm savings shall be broken down by Customer Class and further disaggregated by Peak Period and Off-peak Period and by head and tail block, where applicable.

### 8.3 Energy Efficiency Adjustment Factor Formula

$$EE\_ADJ_T^{n,e} = \frac{BD^{n,e}}{BD^{n,e} - EE^{n,e}} - 1$$

Where:

$EE\_ADJ_T^{n,e}$	The Energy Efficiency Adjustment Percentage for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year
$BD^{n,e}$	The most recent Calendar Year weather-normalized billing determinants corresponding to Base Rate Element $e$ applicable to Rate Schedule $n$ .

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$EE^{n,e}$  The annualized Energy Efficiency savings for the most recent Calendar Year associated with Base Rate Element  $e$  applicable to Rate Schedule  $n$ .

### 8.4 Information to be Filed with the Department

On or before June 1<sup>st</sup> of each year, the Company shall file information and supporting schedules with the Department necessary for the Department to review and approve the Energy Efficiency Adjustment to be included in the ABRAM for the subsequent Rate Year. Such information shall include a description of the energy efficiency measures installed and associated therm savings by Rate Schedule.

### 9.0 Calculation of SIR Base Rate Adjustment

#### 9.1 Description of SIR Program

~~The Company's SIR program provides for the accelerated replacement of aging steel infrastructure in order to maintain safe and reliable service. The costs associated with the program less any operations and maintenance ("O&M") expense savings are recovered through the ABRAM.~~

#### 9.2 Definitions

- ~~(1) Accelerated Gross Plant Investments are the capitalized cost of SIR plant investments including applicable overhead recorded on the Company's books that exceed the Non Accelerated Investment Threshold.~~

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### ANNUAL BASE RATE ADJUSTMENT MECHANISM

- (2) **Accumulated Deferred Income Taxes** is the net reduction in Federal income and State franchise taxes associated with the use of accelerated depreciation allowed for income tax purposes.
- (3) **Accumulated Reserve for Depreciation** is the net credit balance arising from the provision for Depreciation.
- (4) **Carrying Costs** are the costs incurred by the Company to finance investments in Eligible Facilities prior to inclusion in the SIR Base Rate Adjustment mechanism.
- (5) **Depreciation Expense** is the return of the Company's investment in Rate Base at established annual rates as approved by the Department in D.T.E. 05-27.
- (6) **Eligible Facilities** are those facilities in connection with the projects undertaken by the Company to replace bare and unprotected coated steel distribution mains on an accelerated basis.
- (7) **Non-Accelerated Investment Threshold** is the typical annual level of steel infrastructure replacement investment as established by the Department in D.T.E. 05-27.
- (8) **Rate Base** is the investment value upon which Bay State is permitted to earn its authorized rate of return.
- (9) **Property Tax Rate** is the composite property tax rate paid by the Company calculated in its most recent base rate proceeding as the ratio of total annual property taxes paid to total net plant in service.
- (10) **SIR Savings** are the O&M expense savings realized by the Company attributable to the facilities installed under the SIR Program.

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### 9.3 SIR Investments

SIR Investments are the costs of Eligible Facilities and shall include the costs of main replacement projects including any connected facilities such as services, meters or regulators that must be installed or replaced to enable the main replacement to become operational. SIR Investments may include investments in one or more of the following plant accounts:

- (1) Account No. 367, Transmission Mains
- (2) Account No. 376, Distribution Mains
- (3) Account No. 380, Distribution Services
- (4) Account No. 381, Meters
- (5) Account No. 382, Meter Installations
- (6) Account No. 383, House Regulators
- (7) Account No. 385, Industrial Measuring and Regulating Equipment

### 9.4 Eligible SIR Revenue Requirements

Eligible SIR Revenue Requirements shall include depreciation, property taxes, return and associated income taxes associated with total SIR Investments made since the initiation of the SIR program. Carrying Costs on SIR Investments from the time each investment is placed into service until recovery begins shall also be considered Eligible SIR Revenue Requirements.

### 9.5 Eligible SIR Savings

Eligible SIR Savings shall be the lower O&M expense associated with reduced leak repair activity and shall be reflected as an offset to SIR Revenues. Eligible SIR Savings shall be calculated based on the reduction in the number of leak repairs and the associated

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avoided cost of leak repairs.

### 9.6 SIR Revenue Requirements Formula

$$SIR\_REV_T = (RB_{SIR} \times PTRR) + DEPR_{SIR} + PTMS_{SIR} + CC_{SIR} - SAV_{SIR}$$

and:

$$RB_{SIR} = AGP_{SIR} - ARD_{SIR} - ADIT_{SIR}$$

### Where:

$SIR\_REV_T$	The SIR Revenue Requirements for the Rate Year.
$RB_{SIR}$	The Rate Base associated with the SIR Program as of the end of the Calendar Year preceding the Rate Year.
$PTRR$	The pre-tax rate of return as established by the Department in D.T.E. 05-27.
$DEPR_{SIR}$	The depreciation expense associated with the plant investment in the SIR Program.
$PTMS_{SIR}$	The property taxes calculated based on the net plant investment in mains and services associated with the SIR Program multiplied by the Property Tax Rate.
$CC_{SIR}$	Carrying Costs calculated monthly as the product of the Company's pre-tax rate of return multiplied by the Accelerated Gross Plant Investments associated with SIR Program plant placed in service, but not yet recovered through rates.

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

$SAV_{SIR}$	The total Eligible SIR Savings associated with reduced leak repair activity
$AGP_{SIR}$	The Accelerated Gross Plant Investments associated with the SIR Program as of the end of the Calendar Year preceding the Rate Year.
$ARD_{SIR}$	The Accumulated Reserve for Depreciation associated with the SIR Investments as of the end of the Calendar Year preceding the Rate Year.
$ADIT_{SIR}$	The Accumulated Deferred Income Taxes associated with the SIR Investments as of the end of the Calendar Year preceding the Rate Year.

### **9.7 SIR Base Rate Adjustment**

~~The SIR Revenue Requirements shall be recovered from Customers through each Base Rate Element of the Company's firm Rate Schedules by applying a SIR Base Rate Adjustment to each existing Base Rate Element excluding the SIR Base Rate for the Prior Year. The SIR Base Rate Adjustments shall be derived by allocating the overall SIR Revenue Requirements to each Base Rate Element by the percentage of Prior Year total base revenues associated with each Base Rate Element. The resulting revenues by each Base Rate Element are then divided by the corresponding weather-normalized billing determinants for the Prior Year to derive the SIR Base Rate Adjustment.~~

### **9.8 Annual SIR Budget**

~~In conjunction with its annual ABRAM filing each year, the Company shall provide the Department with a description of the SIR projects that it expects to complete during the current construction cycle and to include in the SIR Base Rate Adjustment for the~~

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~~following year. In addition, the Company will estimate the gross plant investment associated with each project. The list of projects and associated cost estimates shall be based on information available to the Company at the time it prepares the Annual SIR Budget and shall be provided for informational purposes. The specific projects undertaken during the current construction cycle and the associated cost of each project may vary due to circumstances and information that are not known by the Company at the time that the Annual SIR Budget was prepared.~~

### ~~9.9~~ Information to be Filed with the Department

~~On or before June 1<sup>st</sup> of each year, the Company shall file information and supporting schedules with the Department necessary for the Department to review and approve the SIR Revenue Requirements and the SIR Base Rates to be included in the ABRAM for the subsequent Rate Period. Such information shall include descriptions of all SIR Investments and the results of the calculation of the SIR Revenue Requirements Formula for the Rate Year. The Company shall also describe any factors that affected changes to the list of projects undertaken from those identified to the Department in the Company's Annual SIR Budget filed the previous year as well as any material variances in the project costs.~~

### **109.0** Information Required to be Filed with the Department

Information pertaining to all of the components of the Annual Base Rate Adjustment Mechanism is to be filed with the Department as specified in Sections 7;and 8and 9. In addition, the Company shall file revised tariff sheets reflecting the impact of applying the base rate changes provided for herein.

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## ANNUAL BASE RATE ADJUSTMENT MECHANISM

**140.0 Currently Effective Rate Adjustment Table**

Customer Class And Charge	Previously Effective Rates			Currently Effective Rates				
	Base Rate Note 1/	SIR Base Rate Note 2/	Base Rate w/o SIR Base Rate (B) - (C)	PBR ADJ % Note 3 2/	PBR Adjusted Base Rate (1+EB) * (DC)	Energy Eff. % Note 4 3/	SIR Base Rate Note 5/	TOTAL Base Rate (FD) x (1 + GE) + (H)
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
<b>R-1</b>								
Customer Charge	\$11.60	TBD	\$11.60	TBD	TBD	TBD	\$0.00	\$11.60
Peak 0-12 therms	0.2393	TBD	0.2393	TBD	TBD	TBD	0.0000	0.2393
Peak 12+ therms	0.1928	TBD	0.1928	TBD	TBD	TBD	0.0000	0.1928
Off-Peak 0-10 therms	0.2393	TBD	0.2393	TBD	TBD	TBD	0.0000	0.2393
Off-Peak 10+ therms	0.1928	TBD	0.1928	TBD	TBD	TBD	0.0000	0.1928
<b>R-2</b>								
Customer Charge	\$6.25	TBD	\$6.25	TBD	TBD	TBD	\$0.00	\$6.25
Peak	0.1158	TBD	0.1158	TBD	TBD	TBD	0.0000	0.1158
Off-Peak	0.1158	TBD	0.1158	TBD	TBD	TBD	0.0000	0.1158
<b>R-3</b>								
Customer Charge	\$12.10	TBD	\$12.10	TBD	TBD	TBD	\$0.00	\$12.10
Peak 0-125 therms	0.3183	TBD	0.3183	TBD	TBD	TBD	0.0000	0.3183
Peak 90+ therms	0.2224	TBD	0.2224	TBD	TBD	TBD	0.0000	0.2224
Off-Peak 0-125 therms	0.3183	TBD	0.3183	TBD	TBD	TBD	0.0000	0.3183
Off-Peak 30+ therms	0.2224	TBD	0.2224	TBD	TBD	TBD	0.0000	0.2224
<b>R-4</b>								
Customer Charge	\$6.25	TBD	\$6.25	TBD	TBD	TBD	\$0.00	\$6.25
Peak	0.0708	TBD	0.0708	TBD	TBD	TBD	0.0000	0.0708
Off-Peak	0.0708	TBD	0.0708	TBD	TBD	TBD	0.0000	0.0708
<b>OL</b>								
Per Light per Month	\$2.58	TBD	\$2.58	TBD	TBD	TBD	\$0.00	\$2.58
<b>G-40</b>								

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**ANNUAL BASE RATE ADJUSTMENT MECHANISM**

Customer Class And Charge	Previously Effective Rates			Currently Effective Rates				
	Base Rate	SIR Base Rate	Base Rate w/o SIR Base Rate	PBR ADJ %	PBR Adjusted Base Rate	Energy Eff. %	SIR Base Rate	TOTAL Base Rate
	Note 1/	Note 2/	(B) - (C)	Note 32/	(1 + $\frac{EB}{EC}$ ) * ( $\frac{EC}{DC}$ )	Note 43/	Note 5/	( $\frac{FD}{ED}$ ) x (1 + $\frac{GE}{EE}$ ) + ( $\frac{HH}{II}$ )
<b>(A)</b>	<b>(B)</b>	<b>(C)</b>	<b>(D)</b>	<b>(EC)</b>	<b>(FD)</b>	<b>(GE)</b>	<b>(H)</b>	<b>(IF)</b>
Customer Charge	\$19.00	TBD	\$19.00	TBD	TBD	TBD	\$0.00	\$19.00
Peak	0.3090	TBD	0.3090	TBD	TBD	TBD	0.0000	0.3090
Off-Peak	0.3090	TBD	0.3090	TBD	TBD	TBD	0.0000	0.3090

<b>G-50</b>								
Customer Charge	\$19.00	TBD	\$19.00	TBD	TBD	TBD	\$0.00	\$19.00
Peak	0.2818	TBD	0.2818	TBD	TBD	TBD	0.0000	0.2818
Off-Peak	0.2818	TBD	0.2818	TBD	TBD	TBD	0.0000	0.2818
<b>G-41</b>								
Customer Charge	\$65.00	TBD	\$65.00	TBD	TBD	TBD	\$0.00	\$65.00
Peak	0.1920	TBD	0.1920	TBD	TBD	TBD	0.0000	0.1920
Off-Peak	0.1216	TBD	0.1216	TBD	TBD	TBD	0.0000	0.1216
<b>G-51</b>								
Customer Charge	\$65.00	TBD	\$65.00	TBD	TBD	TBD	\$0.00	\$65.00
Peak	0.1774	TBD	0.1774	TBD	TBD	TBD	0.0000	0.1774
Off-Peak	0.0826	TBD	0.0826	TBD	TBD	TBD	0.0000	0.0826
<b>G-42</b>								
Customer Charge	\$213.00	TBD	\$213.00	TBD	TBD	TBD	\$0.00	\$213.00
Peak	0.1794	TBD	0.1794	TBD	TBD	TBD	0.0000	0.1794
Off-Peak	0.0778	TBD	0.0778	TBD	TBD	TBD	0.0000	0.0778
<b>G-52</b>								
Customer Charge	\$213.00	TBD	\$213.00	TBD	TBD	TBD	\$0.00	\$213.00
Peak	0.1682	TBD	0.1682	TBD	TBD	TBD	0.0000	0.1682
Off-Peak	0.0657	TBD	0.0657	TBD	TBD	TBD	0.0000	0.0657

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Customer Class And Charge	Previously Effective Rates			Currently Effective Rates					
	Base Rate	SIR Base Rate	Base Rate w/o SIR Base Rate	PBR ADJ %	PBR Adjusted Base Rate	Energy Eff. %	SIR Base Rate	TOTAL Base Rate	
	Note 1/	Note 2/	(B) - (C)	Note 32/	(1 + EB) * (EC)	Note 43/	Note 5/	(FD) x (1 + GE) + (H)	
(A)	(B)	(C)	(D)	(EC)	(FD)	(GE)	(H)	(IF)	
<b>G-43</b>									
Customer Charge	\$781.00	TBD	\$781.00	TBD	TBD	TBD	\$0.00	\$781.00	
Peak	0.0507	TBD	0.0507	TBD	TBD	TBD	0.0000	0.0507	
Off-Peak	0.0193	TBD	0.0193	TBD	TBD	TBD	0.0000	0.0193	
Peak Demand	2.1586	TBD	2.1586	TBD	TBD	TBD	0.0000	2.1586	
Off-Peak Demand	0.6713	TBD	0.6713	TBD	TBD	TBD	0.0000	0.6713	

<b>G-53</b>									
Customer Charge	\$781.00	TBD		TBD	TBD	TBD	\$0.00	\$781.00	
Peak	0.0507	TBD		TBD	TBD	TBD	0.0000	0.0507	
Off-Peak	0.0193	TBD		TBD	TBD	TBD	0.0000	0.0193	
Peak Demand	2.1586	TBD	2.1586	TBD	TBD	TBD	0.0000	2.1586	
Off-Peak Demand	0.6713	TBD	0.6713	TBD	TBD	TBD	0.0000	0.6713	

Notes: 1/ From Column (IF) of the previous year's Annual Base Rate Adjustment Filing Rate Table.  
 2/ From Column (H) of the previous year's Annual Base Rate Adjustment Filing.  
 32/ Calculated in accordance with Section 7.4.  
 43/ Calculated in accordance with Section 8.3.  
 5/ Calculated in accordance with Section 9.7.  
 TBD – To be determined initially in the Company's first Annual Base Adjustment Mechanism filing.

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President

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

### **Section**

- 1.0** Purpose
- 2.0** Effective Date
- 3.0** Applicability
- 4.0** Definitions
- 5.0** Annual Base Rate Adjustment Formula
- 6.0** Determination of Initial Base Rates
- 7.0** Calculation of PBR Annual Rate Adjustment
- 8.0** Calculation of Energy Efficiency Adjustment Factor
- ~~**9.0** Calculation of SIR Base Rate Adjustment~~
- ~~**10.0** Reporting Requirements~~
- ~~**11.0** Currently Effective Rate Adjustment Table~~

### **1.0 Purpose**

The purpose of the Annual Base Rate Adjustment Mechanism ("ABRAM") is to establish procedures that allow Bay State Gas Company ("Bay State" or the "Company") subject to the jurisdiction of the Department of Telecommunications and Energy ("Department") to adjust, on an annual basis, its base rates for firm gas sales and firm transportation service pursuant to the Company's Performance Based Rate ("PBR") and ~~Steel Infrastructure Replacement ("SIR")~~ programs and to reflect the annualized impact of energy efficiency savings ("EES"). The PBR program encompasses a price cap rate indexing mechanism, as well as earnings sharing above and below established thresholds and recovery of exogenous costs. ~~The SIR program provides for base rate adjustments that allow Bay State to recover the costs associated with accelerated replacement of bare and unprotected coated steel distribution mains and other Eligible Facilities.~~ EES are the therm savings attributable to the installation of demand-side management ("DSM") measures pursuant to the Company's DSM programs as approved by the Department from time-

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to-time.

### 2.0 Effective Date

The ABRAM shall be effective June 1, 2005 and shall continue subject to the terms of the PBR and SIR mechanisms set forth below. The initial rates established in accordance with Section 6.0 shall remain in effect until October 31, 2006. Subsequent base rate adjustments shall occur so long as either the PBR or SIR mechanisms remains effective or EES continue to be realized. In the event that both the PBR and SIR mechanisms are is terminated and EES are no longer realized, the Company's base rates, as adjusted pursuant to the ABRAM, shall remain in effect until modified by the Department pursuant to a subsequent base rate proceeding.

### 2.1 Term of PBR Base Rate Adjustment Mechanism

The PBR Base Rate Adjustment mechanism shall continue for a term of five years through October 31, 2010. No further adjustment to the PBR component of the ABRAM shall occur after the completion of the five-year term ending October 31, 2010.

### ~~2.2 Term of SIR Base Rate Adjustment Mechanism~~

~~The SIR Base Rate Adjustment mechanism shall remain in effect until the Company's base rates are modified by the Department pursuant to a subsequent base rate proceeding.~~

### 3.0 Applicability

This mechanism shall apply an adjustment to the base rates of each of the Company's firm sales and firm transportation Rate Schedules, subject to the jurisdiction of the Department, as

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## **ANNUAL BASE RATE ADJUSTMENT MECHANISM**

determined in accordance with the provisions of this mechanism. Such ABRAM shall be determined annually by the Company as defined below, subject to review and approval by the Department as provided for in this mechanism.

### **4.0 Definitions**

The following definitions shall apply throughout the provisions of the ABRAM tariff.

- (1) **Base Rate Element** is any customer, volumetric or demand charge reflected in the Company's Rate Schedules that recovers a portion of the Company's base revenue requirement as established by the Department in its most recent base rate case.
- (2) **Base Rates** are the compilation of Base Rate Elements for all of the Company's Rate Schedules
- (3) **Calendar Year** is the annual period beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>.
- (4) **Customer Class** is the group of customers all taking service pursuant to the same Rate Schedule.
- (5) **Energy Efficiency Savings** shall be the annualized therm savings attributable to energy efficiency measures installed during the Calendar Year.
- (6) **Off-peak Period** is the continuous period from May 1<sup>st</sup> through October 31<sup>st</sup>.
- (7) **PBR Adjusted Base Rate** is the base rate in effect for the Prior Year plus the rate change calculated through the application of the PBR Price Cap Formula to the base rates in effect for the Prior Year.
- (8) **PBR Price Cap Formula** is the mathematical expression set forth in Section 7.3 used to calculate the percentage change in Base Rates for the Rate Year.

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- (9) **Peak Period** is the continuous period from November 1<sup>st</sup> through April 30<sup>th</sup>.
- (10) **Prior Year** is the annual period ending immediately prior to the Rate Year.
- (11) **Rate Year** is the annual period that the adjusted base rates shall be effective beginning on November 1<sup>st</sup>.
- (12) **SIR Revenue Requirements** are the revenue requirements for the Company's SIR program for the Rate Year.
- (13) **SIR Base Rate** is the total component of the Company's Base Rates that recovers the aggregate SIR Revenue Requirements for investments made over the duration of the SIR Program.

### 5.0 Annual Base Rate Adjustment Formula

The annual base rate adjustment formula shall be applied for each Base Rate Element of each Rate Schedule and shall be calculated in accordance with the following formula:

$$BR_T^{n,e} = (BR_{T-1}^{n,e} - BR\_SIR_{T-1}^{n,e}) \times (1 + PBR\_CAP_T^{n,e}) \times (1 + EE\_ADJ_T^{n,e}) \pm BR\_SIR_T^{n,e}$$

#### Where:

$BR_T^{n,e}$  The Base Rate Element  $e$  applicable to Rate Schedule  $n$  for the Rate Year

$BR_{T-1}^{n,e}$  The Base Rate Element  $e$  applicable to Rate Schedule  $n$  for the Prior Year

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$BR\_SIR_{T-1}^{n,e}$	The <del>SIR Base Rate</del> for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Prior Year
$PBR\_CAP_T^{n,e}$	The percentage change for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year calculated pursuant to the Company's PBR Program.
$EE\_ADJ_T^{n,e}$	The Energy Efficiency Adjustment Percentage for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year
$BR\_SIR_T^{n,e}$	The <del>SIR Base Rate</del> for Base Rate Element $e$ applicable to Rate Schedule $n$ for the Rate Year

### **6.0 Determination of Initial Base Rates**

The initial base rates shall be those established by the Department in Docket No. D.T.E. 05-27. The initial base rates shall be set forth in Column (4F) of the Currently Effective Rate Adjustment Table contained in Section 4+10.0 to be effective through October 31, 2006. The first ABRAM change to the initial base rates shall be effective November 1, 2006.

### **7.0 Calculation of PBR Annual Rate Adjustment**

#### **7.1 Description of PBR Program**

The Company's PBR program replaces traditional cost of service ratemaking with an incentive-based mechanism. The PBR program includes price cap, earnings sharing and exogenous components. The price cap component limits the change in base rates to the rate of input price inflation representative of the gas distribution industry less offsets for productivity and a consumer dividend. The earnings sharing component provides for

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sharing of earnings that are outside symmetrical bands above and below Bay State's authorized Return on Equity. The exogenous cost component allows the Company to reflect costs or credits in the PBR mechanism that derive from unanticipated events that are beyond Bay State's direct control.

### **7.2 Definitions**

- (1) **Average Unit Price** shall be the price per therm calculated by dividing the total base revenues for the Customer Class for the Prior Year by the normalized annual throughput for the class for the Prior Year.
- (2) **Basis Point** shall be one one-hundredth of a percentage point.
- (3) **Consumer Dividend** is the benefit to consumers of future productivity gains attributable to performance-based ratemaking for Bay State's services as established by the Department in D.T.E. 05-27.
- (4) **Earnings Sharing Bandwidth** is the percentage range equal to 400 Basis Points below the percentage Return on Equity authorized by the Department to 400 Basis Points above the percentage Return on Equity authorized by the Department.
- (5) **Exogenous Events** are occurrences that have a material and disproportionate impact on Bay State that are beyond the Company's control and are not otherwise reflected in the PBR formula.
- (6) **Input Price Trend** is the measure of change in the prices for all inputs used to provide regulated gas distribution services.
- (7) **Productivity Trend** is the measure of change in productivity associated with providing regulated gas distribution services.



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- (8) **Return on Equity** is the allowed rate of return on equity as established in D.T.E. 05-27.
- (9) **X Factor** is the productivity growth index as established by the Department in D.T.E. 05-27.
- (10) **Z Factor** is the sum of the cost impacts of material Exogenous Events.

### 7.3 **PBR Price Cap Adjustment Formula**

$$\text{PBR\_CAP}_T = (\text{GDPPI}_{T-1} - X) + \frac{(Z_{\text{REV}} + \text{ESM}_{\text{REV}})}{(\text{BASE\_REV}_{T-1} - \text{SIR\_REV}_{T-1})}$$

and:

$$\text{BASE\_REV}_{T-1} = \sum_{n=1}^{n=i} \sum_{e=1}^{e=j} \text{BR}_{T-1}^{n,e} \times \text{BD}^{n,e}$$

and:

$$\text{SIR\_REV}_{T-1} = \sum_{n=1}^{n=i} \sum_{e=1}^{e=j} \text{BR\_SIR}_{T-1}^{n,e} \times \text{BD}^{n,e}$$